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Current Topics.

Mr. Justice Oliver Wendell Holmes.

IT WAS a pleasing tribute, on the part of the editors of the *Harvard Law Review*, to dedicate the latest number of that periodical to Mr. Justice OLIVER WENDELL HOLMES on the completion of twenty-five years of service as an Associate Justice of the Supreme Court of the United States. Of the American judiciary of the present day—and there are several of great distinction—none is held in such veneration in this country as Mr. Justice HOLMES. To some extent, of course, this is due to the circumstance that he is the son of his distinguished father, the genial wit and lovable author of "The Autocrat at the Breakfast Table" and its companion volumes, which have added very considerably to the sum of human happiness by the charm of their literary qualities. But Mr. Justice HOLMES has claims to recognition beyond that of his distinguished parentage. He is a great jurist and a great judge. Since 1882 he has been on the Bench, first of the Supreme Court of Massachusetts, and, since 1902, of the Supreme Court of the United States. Mention of these facts, however, by no means exhausts the tale of his labours in the law. An edition of "Kent's Commentaries" was enriched by his annotations; he edited the *American Law Review* for several years; and he wrote the classic work "The Common Law," which showed to the students of both great English-speaking nations how the story of contracts, torts and kindred topics could be told with a charm and a grace of diction commonly supposed to be impossible in the treatment of legal subjects. The book constituted an epoch-making work in legal literature. Although now nearly eighty-seven, Mr. Justice HOLMES's judicial pronouncements are as fresh and vigorous as ever. As has been well said, "As the years have passed age has but mellowed his opinions, their freshness and liberality continue as before—their force and vigour more poetic, more profound."

Landlord's Property Tax.

AS THE year has drawn to a close, demands will already have been made for the payment of tax chargeable under Schedule A, or "landlord's property tax" as it is more popularly known. It may be as well, therefore, to draw attention to the provisions of s. 21 of the Finance Act, 1927. Under s. 157 (2) of the Income Tax Act, 1918, it was provided that income tax charged, *inter alia*, under No. 1 or No. 2 of Schedule A (i.e., landlord's property tax) instead of being payable on or before the 1st day of January of the year in respect of which it has been charged, should be payable in two equal instalments, the first on or before the 1st day of January in that year, and the second on or before the following 1st day of July. This method of collection now, however, as far as landlord's property tax is concerned, has ceased to have effect, by reason of the provisions of s. 21 of the Finance Act, 1927, the effect of which, apparently, is to make the tax for the whole year payable on or before the 1st January in each year. Where the tax is charged on the occupying tenant in the first place, the tenant has the right of deducting the amount paid by him, but such deduction must be made from the *next* payment of rent; and in the event of the tenant failing to make the deduction from the next payment, the right to recover the tax from the landlord will be entirely lost. It is immaterial, however, in such cases whether the next payment of rent is in respect of *current* rent or of arrears. The position, therefore, at the moment, is that the tenant has the option either of paying the tax before making payment of the December quarter's rent, and deducting the amount of the tax therefrom, or else of paying that quarter's rent before the tax and deducting the amount thereof from the March quarter's rent. The important point to note, however, is that the deduction must in every case be made from the *next* payment of rent.

Limited Company Moneylenders.

BY S. 6 of the Moneylenders Act, 1900, as amended by the Moneylenders Act, 1927, which is to be construed with it, bodies corporate may be exempted from the operation of those Acts; and the Board of Trade have now issued regulations—the Moneylenders (Bodies Corporate) Regulations, 1927, prescribing the conditions in which such exemption may be granted. What the policy of the Board will be remains to be seen. It is not to be expected that exemptions will be freely granted, especially to "one-man" companies. As the learned metropolitan magistrate, Mr. MEAD, has pointed out, a moneylender who desires to avoid the obligation of carrying on his business in his true name (s. 2 (3) of the Act of 1927) has only to turn himself and his wife or his secretary, into a limited company and then assume any high-sounding title he chooses. The immediate occasion of the magistrate's remarks was the application of the "Regent Trust (1926) Limited," for a certificate under s. 2. A trust is commonly understood to be a body of persons, usually themselves formed into a corporation, holding controlling interests in and directing the policy of a number of concerns, and the word is taken to indicate the possession of large financial resources. Whether any harm is done by a moneylending firm "talking big" is doubtful. The borrowers are not injured, for all they want is money on loan, and it is all one to them whether it comes from a gentleman with an ancient scriptural name, or with

one indicating Norman lineage, from a limited company named plain "Smith & Co.," or one with a title suggestive of high finance on a world-wide scale. The rates of interest and the security required will be much the same. Now, at least, many people have a moment's amusement before consigning to the fire the friendly circular which offers them a sum from £1 to £10,000, on their mere note of hand. Why make the world a little duller?

When is a Motor Car not a Motor Car?

LORD EXETER, Chairman of the Stamford justices, made some pointed remarks on the law relating to motor cars when dealing, recently, with summonses against a firm of timber merchants, who had a steam engine hauling a trailer, and failed to have the axle weight painted upon it or to have a person upon it to apply a brake. It was argued for the defence that the Orders under which the proceedings were taken applied only to vehicles fitted with internal combustion engines, but this argument is untenable. The Orders relate to motor cars, which are defined, by reference to the Locomotives on Highways Act, 1896, as vehicles propelled by mechanical power which comply with certain specified requirements as to weight, smoke consumption, and so on. It would seem that directly a steam vehicle ceases to comply with any one of those statutory requirements it ceases to be a motor car, and falls into the category of locomotives to which the older code of law applies. But the Acts and regulations governing road locomotives of all kinds are a terrible tangle. Whether the draft Bill circulated by the Ministry of Transport will become law, and whether if it does, it will clarify the position, is uncertain. If it is to be really useful it will certainly need some alteration before it is presented to Parliament, and then very little tampering with in committee. It is in the latter stage that so many carefully drawn Bills on technical matters get spoiled by legislators who, after a few minutes' consideration, purport to amend the work of others who have devoted weeks and months of careful thought to it.

Soliciting Without Annoyance.

THERE HAS been some animadversion upon the evidence of the Chief Commissioner of Police, because, in his evidence before the Street Offences Committee, he advocated repealing the requirement that solicitation must, to be a criminal offence, involve annoyance. It is easy to see the strong arguments against the suggested change in the law, but it must not be overlooked that while there is such a requirement, there is always the possibility that proof of annoyance will be treated as more or less of a form. It is in fact very difficult to detect, from a man's demeanour, whether he is annoyed or not. The action of turning abruptly away, or stepping aside, from which annoyance is frequently inferred, does indeed show a desire to avoid the unhappy woman's advances but is not inconsistent with a feeling of commiseration rather than of vexation. If evidence of annoyance were not required, but strict proof of the object of the solicitation were insisted upon, there would be much less drawing of doubtful inferences from ambiguous actions, and probably greater security for the person charged. As the law stands there is always the risk that, under the guise of stopping public disorder, the real object aimed at may become the stopping of solicitation in the streets. It is better that the object should be avowed than sought by devious ways.

Damages Without Negligence.

FIFTY YEARS ago the House of Lords decided the case of *River Wear Commissioners* v. *Adamson*, 2 App. Cas. 743, which raised an important question on the construction of s. 74 of the Harbours, Docks and Piers Clauses Act, 1847. The case was remarkable for the divergence of view to which it gave rise. "Everyone," said a distinguished Lord Justice, "who considered the case was more or less puzzled as to what the view of the learned lords really was." The decision, in short, was remarkable for its indecision, and the more so that it was decided by such eminent judges as Lord CAIRNS and Lord BLACKBURN. The question involved was whether shipowners were liable under the Act for damage without negligence. The House, in effect, decided that they were not so liable. And so things remained until the last sittings, when the case of *The Mostyn*, 72 SOL. J., p. 16, came to be decided, and the House, by a majority of three to two, decided that they were so liable. Their lordships distinguished *Adamson's Case* on the ground that it turned upon an act of God, and held that they were bound by that case to hold that "the section was not to be read literally but as applying when the damage had been brought about by a vessel under the direction of the owner, whether negligent or not, and when there were facts to which it applied it effected an alteration in the common law which imposed a new liability on the owner." They therefore found the owners liable, reversed the judgment below, and gave judgment for the appellants. The decision is important as being one of those rare cases in which damages are held to flow from an act which is not negligent, and the result is perhaps unsatisfactory as being the conclusion arrived at by only three of the nine judges before whom the question was argued.

Proofs of Sobriety.

THE DAILY press reports a case of a builder charged with being drunk in charge of a motor car who was acquitted because, when being tested for drunkenness he was able to answer well questions upon the geography of the district, and to draw plans of a house he had sold, also of a plot of ground of stipulated dimensions, with a building in the centre, showing the margin around it. This seems a fairly good proof of sobriety, though it is conceivable that a man with intelligence little affected as to his ordinary occupation might fail in the rapid interaction of hand and eye necessary to drive a vehicle on the road. A prisoner in another similar case invented tests for himself He made a mental note of peculiarities of his cell, such as a kidney-shaped chip in the paint five feet from the ground on the right-hand side of the door; the measurement, to the eighth of an inch, of a ledge in the cell; and he placed in the corners of his cell cards which he could name afterwards as the two of clubs, the queen of diamonds, and so on. These cases open up a pleasing vista of intellectual exercise under adverse circumstances. The police ought to facilitate them, say by taking down quotations from the poets, the moves in a championship game of chess, and so on. A good test would be for a man to recite the closing hours of licensed premises in the various parts of London; he might, indeed, show a dangerous acquaintance with their interiors, but he would at the same time triumphantly demonstrate both clear memory and real power of discrimination upon a confusing subject.

County Court Appeals from Taxation Orders.

UNDER S. 120 of the County Court Act, 1888, no right of appeal is given in certain cases to an unsuccessful litigant in the county court unless leave to appeal is granted by the judge. Among such actions, in respect of which leave to appeal is required, are actions on contracts where the debt claimed does not exceed £20. The wording of the proviso to s. 120, however, is carefully to be noted since the scope of the section is much wider than it would at first sight appear to be. According to the section, it is provided, *inter alia*, that "there shall be no appeal *in any action* of contract where the debt . . . claimed does not exceed twenty pounds . . . unless the judge shall think it reasonable and proper that such appeal should be allowed, and shall grant leave to appeal." The section, therefore, is not limited to appeals from final judgments, but also applies to appeals from interlocutory orders in actions in which the claim is for a debt of not more than £20. This point was clearly established by the decision of the Divisional Court in *Ward* v.

Sneinan, 1925, W.N. 181. There the plaintiff claimed £6 odd, as wages due in lieu of notice, and obtained judgment. Subsequently, the defendant applied for a new trial, which application was granted. From this order the plaintiff appealed, but without leave. It was held that he had no right to appeal, notwithstanding that he was appealing from an interlocutory order, and not a final judgment. The application of s. 120 of the County Court Act, 1888, has again been recently considered by the Divisional Court in *Hives* v. *Dawson*, 1927, W.N. 265, where the point was whether s. 120 applied to cases in connexion with the taxation of bills of costs. The material facts in *Hives* v. *Dawson* were that the plaintiff, a solicitor, brought an action to recover a sum of less than £20 in respect of a bill of costs. Judgment was recovered by the plaintiff, the judge, however, ordered the bill to be taxed. After the taxation, the defendant applied for a review of taxation, but without success, leave to appeal at the same time being refused. On appeal from this order of the judge, the Divisional Court held that there was no right of appeal, the learned Lord Chief Justice observing that, while there was authority for the proposition that an appeal lies in an interlocutory matter without leave, when the amount claimed is over £20 there was no authority for the proposition that, in the case of a review of taxation there is a right of appeal however small the amount in dispute may be.

Bigamy—Duty of Magistrate to Inquire whether Wife Wishes to Give Evidence.

At Guildford Assizes on 2nd December, in *R.* v. *Carlyle*, a prosecution for bigamy, the first witness for the Crown, before she took the oath, was asked by Mr. Justice Horridge, whether she was the wife of the prisoner. She said that she was. His lordship then asked whether she wished to give evidence for the prosecution against her husband. The witness, after some hesitation, said that she would prefer not to do so. Counsel for the Crown then intimated that he was unable to prove the marriage of the prisoner, and, at the direction of the learned judge, the jury returned a verdict of "Not guilty." Mr. Justice Horridge said that he was afraid that magistrates did not realise that it was their duty in cases of bigamy, before taking the evidence of the wife of the prisoner, to ask her whether she was willing to give evidence against her husband, and if she stated that she was, to record that fact on the depositions. Where that course was adopted it would lead to a considerable saving of expense. It will be remembered that before the year 1914 a wife was not a competent witness against her husband in a prosecution for bigamy on any part of the case, either at common law or under the Criminal Evidence Act, 1898. But, by s. 28 (3) of the Criminal Justice Administration Act, 1914, "The wife or husband of a person charged with bigamy may be called as a witness either for the prosecution or defence and without the consent of the person charged." On similar words, in s. 4 of the Criminal Evidence Act, 1898, relating to certain offences specified in the schedule to that Act, it was held by the House of Lords that a wife, although competent, was not a compellable witness against her husband (see *R.* v. *Leach*, 1912, A.C. 305). The wife of a prisoner on a prosecution for bigamy is competent to prove the marriage, the identity of the parties, and that she was alive at the date of the second so-called marriage. If the magistrates at the police court fail to warn her that she is not obliged to give evidence, she may do so under a misapprehension of her rights, and she may ascertain her position first when informed of it by the judge of the High Court at Assizes. If she is given the information at the police-court and refuses to give evidence, the prisoner may be remanded and the evidence she is called to give may be supplied *aliunde*. The omission, therefore, of magistrates to give this information may lead, not only to unnecessary expense, but also to a failure of justice. It will be observed that Mr. Justice Horridge said that it was the duty of magistrates, if the wife consented to give evidence, to record that fact on the depositions.

Desertion and Separation Agreements.

The Matrimonial Causes Act, 1923, came into force on the 18th July of that year, and in some cases there may be evidence of adultery by the husband before, but not since, that date. The wife, on petitioning for dissolution, must in such cases allege some additional matrimonial offence—usually desertion. A difficulty may then be found to exist in the shape of a separation agreement. If the husband is still paying thereunder, desertion, in law, is held not to exist. The theory underlying the question of desertion is that the separation must have been without the consent of the party who alleges desertion: per Shearman, J., in *Roe* v. *Roe*, 1916, P. 163. Both parties, however, may have treated the deed as a nullity, and in that case it will not have prevented the desertion from arising. It is a question of fact whether there has been a repudiation of the deed, but the cases over ten years old are often summarised in the text-books in a manner discouraging to a wife who now desires to petition for dissolution. For instance, it is said that desertion is not constituted by a mere failure of the husband to keep up his payments under a deed otherwise acted upon. The above case is said to have decided that there is no desertion if the wife has sued on the deed. At first sight it therefore appears that her remedy is barred by an abortive county court action she may have been advised to bring many years ago. The judgment in the above case (also reported in 60 Sol. J. 405) contains, however, this further statement: "If there has been a separation by consent, and afterwards the document . . . comes to an end, it may well be that from that moment desertion may begin, for if both parties repudiate the deed, the status conferred by it comes to an end." The petitioner in that case had stated frankly that she had always insisted on her rights under the deed, so it was not open to the court to find repudiation as a fact. If, on the contrary, the petitioner states what has usually happened—that she left the deed with her solicitor who acted in the county court case, and has not seen it (or received any money) for years—the court will probably be satisfied that the deed is a nullity and that there is therefore desertion.

Bankruptcy Petition by Limited Company.

The Bankruptcy Act, 1914, s. 149, provides that a corporation may act by any of its officers authorised in that behalf under the seal of the corporation. The secretary or a director of a limited company therefore usually presents a petition in his own name, stating the capacity in which he does so, and that he is duly authorised under seal. Rule 151 provides that every creditor's petition shall be verified by affidavit, and s. 147 (1) of the Act provides that no proceeding shall be invalidated by any formal defect or by any irregularity unless substantial injustice has been caused. The debtor may be in close touch with the affairs of a private company which is presenting the petition, and may know as a fact that when the affidavit was sworn the resolution of the directors authorising the proceedings had not been passed. The deponent may be accused of perjury by a debtor in person on the hearing of the petition before the registrar, but the question is a legal one, and an officer of a company need not necessarily derive his authority from a specific resolution relating to each particular case. The defect is more than formal, however, and s. 147 (1) is of no avail if the evidence shows that the deponent's authority was only conferred by a resolution of the board on a later date. *Re a Debtor*, 1915, 1 K.B. 287, decided that a resolution authorising an officer of a company to present a petition did not authorise proceedings founded on a subsequent act of bankruptcy. This case was explained and distinguished, however, in *Re a Debtor*, 1917, 2 K.B. 808, which decided that under s. 149 a company may by resolution give a general authority to present petitions in the future. Speed is often of paramount importance in bankruptcy, but it is unsafe to rely on the assumption that subsequent ratification will cure initial defects in an authority to act.

The New Laws.

ALTHOUGH there is at least one Act of first-class public importance, the main provisions of which come into force this month, neither this nor the large majority of the others will much affect the work of the profession as a whole. The Landlord and Tenant Act, it is true, may contain many legal problems, but that is not timed to come into force until after Lady Day. The Widows, Orphans, and Old Age Contributory Pensions Act, 1927 (which suggests the desirability of an Act to abbreviate the titles of Acts) may for a while offer certain puzzles as to the qualifications of various humble folk to receive the pensions, but is not likely to need much elucidation in the courts.

Two statutes passed in July last, namely, the Auctions (Bidding Agreements) Act, 1927, and the Moneylenders Act, 1927,* will now be subjected to the test of practical working. Each to some extent violates the old theory of freedom of contract, in that they both prohibit, under penalty, bargains into which various persons are mutually ready if not anxious to enter, so no doubt the advisers of various moneylenders and of certain dealers who frequent auction rooms will be invited to find a "way round" them. The prophecy may be made that the Moneylenders Act will be the less easy to evade, because those under it have to come into court to enforce their contracts. On the face of it, the Auctions Act would appear to be extremely difficult to enforce, unless some member of each "ring" will oblige the police and turn informer. The individual corporations and firms composing a certain American trust have been ere now solemnly forbidden by injunction to fix prices in their own interests, and required to compete against each other; and have subsequently found that they can rely on the force of coincidence to keep their prices about level, so their customers are where they were. And, similarly, dealers at auctions may act, without agreement, just as they would if they had one. Alternatively, they may go into partnership *bonâ fide* on a joint account within the proviso to s. 1 (1), and leave the authorities the delicate task of unravelling the phrase "*bonâ fide*."

The Moneylenders Act is a strict measure, and if it can ensure that all the professionals shall henceforth be fairly honest and reputable people, and state their rate of interest in the contract clearly, it will be useful. Comment may perhaps be made on s. 7, which forbids a moneylender, "directly or indirectly" to increase interest on default, and so deprives him of the liberty accorded to the rest of His Majesty's subjects to accept a mortgage with the common-form "punctual payment" clause—a form which substitutes apparent indulgence on performance for real penalty on default. This simple device baffled the old Chancery judges who objected to the penalty as "usurious." If the words "directly or indirectly" will not cover this obvious ruse, the prohibition will be a dead letter. A saving might perhaps have been expected in respect of such common mortgage clause, but the proviso to the section does not contain one. The result appears to be that a stipulation deemed usurious by the old judges is disallowed to usurers only. The provisions as to clear statement of rate of interest should be very useful—to borrowers who take the trouble to study their contracts. A large class, however, are ready to sign anything without reading it if they can get the money they want. And, it may be added, a large proportion of this class will only repay what they owe if manifest and extreme inconvenience as an alternative renders payment, from their point of view, the lesser of two evils. Mr. MANTALINI and RALPH NICKLEBY, RAWDON CRAWLEY and Mr. MOSS, have their counterparts in modern clothes. And when RAWDON despondently observed that his winnings from GEORGE OSBORNE would barely pay their hotel bill, his wife made the historical remark "Why should we pay it?"

* "Law Relating to Moneylenders." 2nd Edition. The Solicitors' Law Stationery Society, Limited, London, Liverpool and Glasgow. 12s. 6d. net.

Comment on Acts passed at the end of last session and now in force must be subject to the usual handicap that it is impossible for the public, law-abiding or otherwise, to obtain copies of them. Perhaps some day a statesman will arise, and, by taking a few hours' work in establishing liaison between those in charge of bills presented to His Majesty for assent, and the King's Printers, ensure that new laws may be known to the public with the relative celerity of such important matters as Cup Finals. But that time is not yet, and the lawyer who wishes to know his business must do his best with the latest prints of bills available, and guesswork. On this footing various minor statutes may be mentioned. For example, the Colonial Probates Act, 1892 ("to provide for the recognition in the United Kingdom of Probates and Letters of Administration in British Possessions") is extended to protected states and mandated territories, and the Minister of Agriculture is given power by the Destructive Insects and Pests Act, 1927, to remove or destroy crops infected with noxious insects, paying compensation, on similar lines to his power to order the destruction of cattle suffering from foot-and-mouth disease. The public authorities concerned will note that there is a new Mental Deficiency Act. A small measure (the Protection of Animals (Amendment) Act, 1927) relieves farmers from penalty when they have put down poison to kill vermin or for manure, and an animal within the protection of the principal Act (1911) is accidentally killed by it.

The Cinematograph Films Act, 1927, provides for the compulsory registration of all Films to be exhibited on and after the 1st April next. The enforcement of its provisions will concern the trade, and the public authorities charged with carrying it out, and their legal advisers only. Its interest to lawyers as such will therefore be limited, but when they seek entertainment it may be hoped that competition will weed out some of the stuff dumped into English picture-houses on the "blind booking system," in which the producers, portraying Court scenes here, have been too slovenly to make any sort of effort towards accuracy. For example (1): Lady respondent and the K.C., her counsel, sitting side by side together in the Divorce Court before a judge in a curly Jacobean wig; (2) A young barrister about to go into court in his wig, an usher's gown, country suit, flowing neck-tie, and no bands; and (3) In a piece where the characters use motor cars, a caption that a racehorse is to be sold "By order of the Court of Common Pleas."

The Road Transport and Lighting Act, 1927, comes into force at summer-time, so need not yet be considered in detail, and the Unemployment Insurance Act, 1927, is also postponed until the 19th April, 1928. The Audit (Local Authorities) Act disqualifies members of local authorities from office for five years after a surcharge of £500, and contains provisions as to a quorum when more than one-third of a particular body become so disqualified. It provides further for an appeal to the High Court on such a surcharge. This will apply to surcharges after 31st October last. Then a short Act embodies an agreement between Great Britain and Northern and Southern Ireland as to registered medical practitioners and dentists. The operation of the Nursing Homes (Registration) Act is postponed until July next. The Superannuation and other Trust Funds Validation Act, already in force, is a useful little measure, exempting the benevolent and pension funds now so common a feature in the internal affairs of big firms and companies, from the rigours of the law against perpetuity when registered under it. It also legalises the establishment of private sinking funds against the national debt. A direct gift for the reduction of the national debt has been held to be charitable: *Ashton* v. *Lord Langdale*, 1851, 20 L.J. (Ch.) 234; and also one to the Chancellor of the Exchequer "for the benefit and advantage of my beloved country Great Britain," in *Nightingale* v. *Goulbourn*, 1848, 2 Ph. 594. But possibly private donors,

knowing the characters of successive Chancellors of the Exchequer, will prefer to keep their own control.

Mention should perhaps be made of the Statute Law Revision Act, pruning off spent legislation since the first year of the last reign; and of the Criminal Appeal (Scotland) Act—in effect, to ensure that justice shall be done in the case of OSCAR SLATER, as France did, rather less tardily, in the case of DREYFUS.

Finally, the 1st January was the "appointed day," under s. 31 of the Railways Act, 1921, for the schedule of charges made by the Railway Rates Tribunal constituted under that Act to come into operation.† The Tribunal itself also exercises new powers as from that date under s. 28 (1) (*b*) to (*f*), and (2). The Tribunal has the task of holding the scales evenly between passengers and traders on the one hand and the railway companies on the other in adaption to post-war conditions, and, in a quiet and business-like way, and without limelight, has got through an enormous amount of hard work for the public benefit.

It is perhaps of general interest to note that the Public Health (Preservatives in Food) Regulations, 1925, 1926 and 1927, will, as from the 1st January last, apply to butter, cream and articles of food containing preservative necessarily introduced by the use in their preparation of preserved bacon, preserved ham, preserved egg yolk or preserved cream, and, as from the 1st July next, to articles of food containing preservative necessarily introduced by the use in their preparation of preserved butter.

† "A Guide to the Railway Rates Tribunal." The Solicitors' Law Stationery Society, Limited, London, Liverpool and Glasgow. 12s. 6d. net.

Confiscatory Decrees of Foreign Governments.

OF recent years our courts have frequently had occasion to inquire into the effect of decrees of foreign Governments, confiscating or disposing of movable property within their jurisdiction. It may, therefore, be useful to extract what appear to be the underlying principles of the recent decisions on this subject.

Subject to the conditions to be stated hereafter, such a decree will be held to be binding in the English courts, and if the foreign sovereign refuses to submit to our jurisdiction, our courts cannot adjudicate on or deny the validity of the decree. *Westlake* (p. 205) appears to treat this matter as another application of the *Lex situs* to movables, but, surely, this is erroneous, since our courts do not in such cases inquire whether or not the foreign Government is acting contrary to its own law (the *Lex situs*).

Before English courts will admit the power of foreign Governments to act in this arbitrary manner, it appears that *three* conditions must be complied with:—

(1) The foreign Government must be recognised as such by the British Government; but it is immaterial whether it has been recognised as a Government *de jure* or *de facto*.

This is clearly brought out in *Company for Mechanical Woodworking, A. M. Luther* v. *Sagor*, 1921, 3 K.B. (C.A.), 532. In the King's Bench, ROCHE, J., on the evidence before him, concluded that the Russian Soviet Government had not been recognised by His Majesty's Government, and that, therefore, the court "was unable to recognise it, or to hold it has sovereignty, or is able by decree to deprive the plaintiff company of its property." But in the re-hearing by the Court of Appeal, fresh evidence was adduced showing clearly that the Russian Soviet Government *had* been recognised. Thereby, as BANKES, L.J., said (p. 541), the whole aspect of the case was changed. The court accordingly decided that the confiscatory decree conferred a good title on the defendant.

The same principle underlies the decision in *White, Child & Beney, Ltd.* v. *Eagle Star and British Dominions Ins. Co.*, 1922, 38 T.L.R., 367. The plaintiffs (an English company) had deposited in the Petrograd Bank certain bonds, and took out two insurance policies on this property against loss or damage "directly caused by fire, . . . rebellious military or usurped power," but the insurers were not to be liable for losses caused by "confiscation or destruction by the Government of the country in which the property is situated." Subsequently, the Russian Soviet Republic took possession of the Petrograd Bank. The plaintiffs sued to recover on the policies. It was held that the losses were losses within the meaning of the policies, and that in the absence of proof that the Russian Soviet Republic was at that time recognised as the Soviet Government, the loss was a loss by "rebellious, military or usurped power," and the plaintiffs were entitled to recover.

(2) The property confiscated must be within the jurisdiction of the foreign Government at the time of the confiscatory decree: failing that, our courts can adjudicate on the validity of the decree.

This is illustrated by the *Russian Commercial Bank* v. *Comptoir D'Escompte de Mulhouse*, 1925, A.C. 112. There a Russian bank had its head office in Petrograd, and a branch office in London. By the direction of the Petrograd office, the London branch deposited with a London bank certain bonds, to be held to the order and account of a French bank as security for a banker's credit opened by the French bank for the benefit of the Russian bank. In 1918 the Russian Soviet Government nationalised banking institutions in Russia by taking over all the property of private banks. Subsequently the manager of the London branch agreed with the French bank to pay off the amount due to the latter on the banker's credit, conditionally on the French bank's returning the bonds. The amount was paid, but the French bank refused to release the bonds. In an action brought by the manager of the London branch for the return of the bonds, the defendants pleaded (*inter alia*) that the plaintiff bank had ceased to exist. It was held that upon the construction of the Soviet Government decrees, the defendants had not proved that the plaintiff bank was dissolved, or that the property in the bonds was no longer in the bank: *Per* VISCOUNT CAVE (at p. 125): ". . . It was argued on behalf of the respondents that, as the decree of 1918 declared that all bank shares should be null and void, the effect of that decree was to destroy the banking corporation. I am unable to understand how such an order could be effective to confiscate or destroy shares held by persons out of the jurisdiction of the Soviet Government."

So also, in *S. Collins & Co.* v. *Rossia Insurance Co.*, 1926, 1 K.B., 1, a decree of the Russian Soviet Government purporting to confiscate debts in England was declared to be invalid.

(3) Our courts may refuse to recognise such confiscatory decrees if contrary to International Private Law.

This is illustrated by the early case of *Wolff* v. *Oxholm*, 1817, 6 M. & S. 92. While hostilities between Great Britain and Denmark were pending, an ordinance was issued by the Government of Denmark whereby "all ships, goods, money, and money's worth, of or belonging to English subjects were sequestrated and detained." In consequence, a suit then being tried in the Danish Court for recovering a debt due from a Danish to a British subject was stayed; the debt was later paid by the Danish subject to Government commissioners appointed by virtue of the ordinance to receive payment, whereupon the suit by the British subject was quashed. Later an action was brought in this country against the Danish subject to recover the same debt, and his defence that he had discharged it by his payment to the Danish Government was held bad on the ground that the ordinance was contrary to the law of nations and therefore void.

WESTLAKE (p. 205) says that: "the courts here will not inquire whether the decree is . . . *contrary to principles of natural justice.*" He does not, however, cite any authority for this statement, and, by analogy to cases like *Hope* v. *Hope*, 1857, 8 D.M. & G. 731, and *Kaufman* v. *Gerson*, 1904, 1 K.B. 591; one may venture to doubt whether a foreign decree clearly contrary to natural justice would be recognised here. In *Company for Mechanical Woodworking, A. M. Luther* v. *Sagor and Co.*, 1921, 3 K.B. 532, BANKES, L.J. (at p. 543), stopped to inquire whether the confiscatory decree could be considered contrary to natural justice, coming to the conclusion that it could not; a process which seems rather futile if WESTLAKE'S statement is correct. H. E. D.

A Conveyancer's Diary.

Registration of Land Charges in Yorkshire.

In the case of a general equitable charge, restrictive covenant, equitable easement or estate contract affecting land within any of the three ridings, and in the case of any other land charge (not being a local land charge) created by a document which shows on the face of it that the charge affects land within any of those Ridings, registration is to be effected, *in the prescribed manner*, in the appropriate local deed registry in place of the Land Registry: L.P. (Amend.) A., 1926, Sched., amending L.C.A., 1925, s. 10 (6).

The effect of the amendment is to make local registration compulsory in respect of the interests mentioned in sub-s. (6), instead of optional as an alternative to registration at the Land Registry.

The words "in the prescribed manner" refer to the Land Charges Rules, 1925, 1926 (see 2 Wolst. & Cherry, pp. 836-855) and the Land Charges Fees Order, 1926 (*op. cit.* pp. 856-858) Land Charges Fees Order, 1927 (72 SOL. J., p. 18): L.C.A., 1925, ss. 19, 20 (9). Those rules and orders apply for the purpose of L.C.A., 1925, s. 10 (6), *supra*: Land Charges Rules, 1925, r. 15, and see Land Charges Fees Order, 1927, rr. 1, 4.

It is clear, therefore, that the institution of a land charges department in each of the Ridings Deeds Registries is authorised under the above provision.

Accordingly, the person interested in enforcing, say, a restrictive covenant entered into after 1925 and intended to affect land in one of the Ridings should register it in the Land Charges Department of the Riding Deeds Registry, and where two or more transactions for value are to be carried out concurrently, he should previously register a priority notice.

Whereas the registers kept under the L.C.A., 1925, are primarily designed to protect equitable interests, the deeds registers kept in Middlesex and Yorkshire are, after 1925, only required for the registration of memorials of documents creating or transferring a legal estate: L.P.A., 1925, s. 11. Full effect has, in the case of Middlesex, been given to this enactment—The Land Registry (Middlesex Deeds) Rules, 1926, for which see 2 Wolst. & Cherry, pp. 898-909 and the Land Registry (Middlesex Deeds) Fee Order, 1927, for which see 72 SOL. J., p. 19—with the consequence that in Middlesex there is no unnecessary duplication or overlapping.

On the contrary, in Yorkshire, no such rules have been made, with the result that there is a considerable amount of overlapping and unnecessary payment of fees to the Riding councils. Indeed, copies of conveyances and other deeds, instead of a short memorial, appear to be registered in full. It is obvious that "the existing rules affecting registration of deeds in Yorkshire (see 1 Prid. 22nd ed., pp. 156-161, 835-838) are wholly out of date": see 2 Wolst. & Cherry, p. 909.

As registration affecting land in the three Ridings may have been effected in one of three registers, three sets of official certificates of search have to be obtained, one from the Land Registry (in respect of interests not within L.C.A., 1925, s. 10 (6) as amended) and two from the particular Riding Registry.

In the circumstances, the best course seems to be for landowners and members of the legal profession in the three ridings to bring pressure to bear upon the Ridings councils or registries to prepare and submit to the Lord Chancellor draft rules on the lines of the Middlesex rules. Pressure will be necessary for, naturally, the councils will not too readily reduce or forego the fees which they are now exacting, in overlapping cases unnecessarily, from those who deal with land in their areas. In many quarters the conclusion has been drawn that the Riding councils are acting with their eyes on the provision as to compensation payable by the Land Registry should a transfer be effected of the business of the local deed registries to the Land Registry; see L.R.A., 1925, s. 136 (5).

Landlord and Tenant Notebook.

Carving of Controlled Dwelling-house out of Uncontrolled Premises.

In the December issue of the *L.J. County Courts Reporter* (at p. 58), the case of *Darlington* v. *Arnold* is reported, a case which decides what appears to be a point under the Rent Acts on which, as far as we are aware, there is no previous authority.

The facts in *Darlington* v. *Arnold*, so far as material, were shortly as follows:—

A farmhouse and lands were let to one Lyons in September, 1924, the whole subject of the letting being outside the operation of the Rent Acts, by reason of s. 12 (2), proviso (iii) of the Act of 1920. By virtue of this proviso, the Rent Acts do not apply where a house is let together with land other than the site of the house, if the rateable value of the land let separately would be more than one quarter of the rateable value of the house, and in *Darlington* v. *Arnold* the rateable value of the lands was more than one quarter of the rateable value of the farmhouse.

From the year 1922 until May 1926 part of the farmhouse was sub-let to one Roberts at a rent of 5s. per week, and on Roberts vacating possession of the part in question, was taken by the defendant who became the tenant thereof, *there being merely a change of tenancy.*

The question that arises for consideration is whether, where premises as a whole are outside the Rent Acts by reason of proviso (iii) to s. 12 (2) of the Rent Act, 1920, a controlled "dwelling-house" may be carved thereout by the letting of a part. *Darlington* v. *Arnold* decides that this can be done.

It may be of advantage to examine such previous authority, as exists which has a bearing on the point.

It was decided in *Woodhead* v. *Putnam*, 1923, 1 K.B. 252, that where part of a dwelling-house is let at a time when the whole is not within the Rent Acts, and the whole subsequently becomes controlled the standard rent of such part is not the rent at which it has been so let, but a rent to be arrived at by apportionment.

This principle was carried a step further in *Barrett* v. *Hardy*, 1925, 2 K.B. 220, which laid down the principle that in such cases not only was a tenant of the part entitled to say that the standard rent of the part was to be determined by apportionment, but also that having once determined the standard rent of the part in this way (by apportionment), he was entitled to say that the part was within the Act if the rent as apportioned was within the statutory limits, quite irrespectively of whether or no the rent of the whole premises (i.e., the comprising property) was within such limits. The matter was put thus by Lord Justice Bankes in *Barrett* v. *Hardy*: "The result of the decisions," said the learned

Lord Justice (*ib.*, at pp. 223, 224), "is to use Salter, J.'s, language in *Woodhead* v. *Putnam*, 1923, 1 K.B. 256, that to entitle a tenant to apportionment . . . *it is not necessary that the property in which the applicant's dwelling-house is comprised should itself be a dwelling-house or should be subject to the Act!* . . . As a result of this contention, apportionment is permissible for the purpose of ascertaining whether a house or a part of a house is or is not within the Act." It may also be of interest to note that in *Phillips* v. *Potter*, 41 L.R. 460, it was held that a tenant of a part was entitled to an apportionment even where the result may be to show that the part let to him is not within the Rent Acts.

These decisions, it seems, lead irresistibly to the conclusion that whatever the reason for the "comprising property" being uncontrolled a part thereof may, notwithstanding, be subject to the Rent Acts, if it is let at such a rent and on such conditions as those to which the Acts apply.

But one must consider in this respect the effect of the decontrolling provisions in the Act of 1923. Assume that the comprising property has become decontrolled, or was not controlled at the time of the passing of the 1923 Act. In such a case can part thereof become controlled subsequently to the 31st July, 1923? It is submitted, not; since, when premises are decontrolled they are completely decontrolled, i.e., the whole and every part thereof is decontrolled and can never again become controlled; and the same consequences must result where neither the whole nor any part of the premises was within the Rent Acts on the 31st July, 1923. The learned judge in *Darlington* v. *Arnold* seems, however, to have been of a contrary opinion. With this view, with respect, we cannot agree, nor does any such principle appear to be necessary for the purposes of that case, since there the "landlord" (sub-lessor) never apparently came into "actual possession" of the rooms on their being vacated by Roberts. As far as can be gathered from the report of the case on Roberts vacating, the defendant immediately took possession of the rooms, so that there was merely a change of tenancy and a "notional" (but not an "actual") possession on the part of the landlord (s. 2 (3) of the 1923 Act), so that the part in question was never decontrolled.

Our County Court Letter.

RECOVERY OF TITHE RENT-CHARGE.

QUEEN Anne's Bounty is associated, in the minds of newspaper readers, with monetary grants to the mothers of triplets. Some householders know the fund in another sphere of its activities—viz., as a collector of tithe rent-charge. Like other collectors, it sometimes sends a Final Notice, the final words of which are: "unless, etc., . . . and at the same time we shall have to ask the Court for an Order against you for expenses incurred." The last phrase is that which sends the householder to his solicitor, as although the rent-charge claimed may be small in amount, the question of costs is one which no one can ignore. The position is as follows:—

Under the Tithe Act, 1891, s. 2 (1), payment of tithe rent-charge can be enforced against the owner by proceedings in the county court, and in no other manner. The rent-charge was formerly payable to the vicar of the parish, and was usually collected on his behalf by land agents entitled receivers. Under the Tithe Act, 1925, s. 3, tithe rent-charge attached to benefices is transferred to Queen Anne's Bounty, by whom it is held in trust for the incumbents. Under the same Act, s. 10, the incumbent may be appointed agent for collection. The same section directs Queen Anne's Bounty to divide the country into collection areas, and to constitute for each area a committee, who may appoint agents for collection. A demand may therefore be received from an incumbent, or from land agents describing themselves as agents for the committee. It should be noted that under the Tithe Act, 1891, s. 10 (2), no sum is recoverable under the Act unless proceedings are commenced before the expiration of two years from the date at which it became payable. The regulations laid down are doubtless somewhat inelastic, but it is to be hoped that the following is an exceptional and not a typical example of the method of collection: On the 1st June, 1927, the occupier of a house received a notice of audit and request for payment of "one year and Arrears," due the 1st April, 1927, amounting to five *pence*. Further particulars were asked for, and it was then elicited that the amount was payable in respect of two and a half years. The total amount legally recoverable was therefore four pence. On the 5th August, 1927, a second application was received. The process began again on the 14th October, 1927, when an application was received for the year ending the 1st October, 1927, and arrears—total six pence. This was on an up-to-date printed form, quoting parts of the Act of 1925. A second application was received on the 21st November and a final demand on the 14th December, 1927. The result is that the legally recoverable sum of four pence has been expended in postage alone.

The procedure is governed by rules under the Tithe Act, 1891, amended April, 1926. The agent, though not a solicitor, may apply on behalf of the tithe-owner, but under r. 12 shall (if required) produce a written authority from the person claiming, or satisfy the registrar that he has general authority to collect. The parties are called applicants and respondents, and the pleadings consist of a notice of application and a notice of opposition, in the prescribed forms. Rule 2 provides, however, that proceedings shall not be invalidated by the use of the wrong forms. Rule 57 provides that where any matter is not specially provided for, the same procedure shall be followed as in a similar matter under the County Courts Act, 1888. An example of a special provision is r. 11, under which a ground of opposition not mentioned in the notice shall not be entertained except on terms as to adjournment, costs, etc. It is often difficult to trace the tithe map in these days of newly created dioceses, but this will have to be produced if the applicant is put to strict proof of title. Rule 43 provides that all costs shall be taxed by the registrar, and the same scales shall have effect as in similar proceedings under the County Courts Act, 1888. The Tithe Act, 1891, s. 2 (9), provides that no personal liability shall be imposed upon any occupier, so that no judgment summons can be issued for non-payment of tithe rent-charge. The only remedies are by distress or appointment of receiver. If the occupier is liable by contract to pay the tithe rent-charge to the owner of the lands, the latter must give notice to the owner of the tithe rent-charge, in default of which the landowner who has paid the tithe-owner may lose his right of recovery against the occupier. Where the applicant (having been notified as above) files an occupier's liability notice, the registrar shall serve a notice of application on the occupier, who is entitled to be heard as well as the landowner.

LORD JUSTICE GREER.

Sir Arthur Greer, a Lord Justice of Appeal, was on the 3rd inst., appointed Deputy-Chairman of the East Sussex Quarter Sessions in the place of Major R. L. Thornton, who has resigned for reasons of health.

Returning thanks, his lordship said he regarded it as a great opportunity, since he had been removed to the Court of Appeal, to have a place where he could keep in touch with what he regarded as a most important judicial function in this country in the administration of criminal justice.

THE LAW OF PROPERTY ACTS.

In our issue of the 31st ult., we published, in deference to the wishes of a large number of subscribers, a Summary of the Reported Cases on the above Acts, to meet the convenience of conveyancers for noting-up purposes. As, however, the demand for copies of THE SOLICITORS' JOURNAL in which the article appeared is likely to exceed the supply, we are now publishing the same in pamphlet form, prints of which will be available in a few days at 7d. each (post free), at the offices of THE SOLICITORS' JOURNAL, 29, Breams-buildings, E.C.4.

Practice Notes.

BANKRUPTCY.

One of the intentions underlying English bankruptcy legislation has been to benefit the debtor; to cut the Gordian knot of his financial entanglements and enable him to start business life again after he has obtained his discharge, which the court can grant, refuse or suspend as circumstances require.

A feature peculiar to bankruptcy law is the trustee's power to disclaim onerous property. Even freeholds, if they are burdened with onerous covenants, may be disclaimed, the legal estate apparently reverting to the Crown. The trustee may disclaim in every case where the subject-matter is not a lease at any time within twelve months after the first appointment of a trustee. Where the subject-matter is a lease, the trustee must obtain the leave of the court to disclaim, having served the notice of motion on all parties interested, unless the case falls within the exceptions set out in Bankruptcy Rule 276 (1).

Action, however, does not rest only with the trustee. Any person interested has the right to make written application to the trustee requiring him to elect to disclaim or not onerous property within twenty-eight days.

After disclaimer the court may vest the property in any person interested who makes an application for that purpose, except that where the property is a lease a person claiming under the bankrupt will not be entitled to an order "unless (*a*) he is placed in such a position with regard to the property as the bankrupt was in at the date when the petition was filed; or (*b*) if the court thinks fit, is made subject only to the same liabilities and obligations as if the lease had been assigned to him at the date when the bankruptcy petition was filed."

The incidences of property in the lease have been there. Adjudication took the property out of the debtor and vested it in the trustee. The trustee disclaimed and on the application of the person interested the court by order, vested the property in him.

Any person injured by the operation of disclaimer is to be deemed to be a creditor of the bankrupt to the extent of the injury, and may prove for it on a debt under the bankruptcy.

PROBATE.

It has often not been appreciated on behalf of a party contesting a will, about the procurements of which there are suspicious circumstances, that full inquiry can be achieved with much less risk as to costs by pleading want of knowledge and approval, rather than undue influence.

The burden of proof of knowledge and approval lies on the party setting up the will, whereas the burden of proving undue influence is in general at once shifted on to the person alleging it on proof of capacity and due execution, and undue influence is very difficult to prove. Further, an unsuccessful party who has pleaded undue influence, which is akin to fraud without reasonable and sufficient ground, will in all probability be condemned in the costs of the other side, and the pleas of want of knowledge and approval or unsoundness of mind are, in most cases, sufficient to establish or disprove the righteousness of the transaction without running that risk.

A stringent investigation on a plea of want of knowledge and approval is doubly secured where the party preparing or writing the will takes under it a substantial benefit.

The law on this point is founded upon the judgment of Parke, B., in *Barry* v. *Butlin*, 2 Moo. P.C. 480: ". . . If a party writes or prepares a will, under which he takes a benefit, that is a circumstance which ought generally to excite the suspicion of the court, and calls upon it to be vigilant and jealous in examining the evidence in support of the instrument, in favour of which it ought not to pronounce unless the suspicion is removed, and it is judicially satisfied that the paper does express the true will of the deceased."

Correspondence.

Some Recent Decisions in the Principal Probate Registry.

Sir,—Will you permit me space to comment on the note of the Principal Probate Registrar, printed in your issue of the 24th inst., with regard to the new practice to be followed in consequence of the decisions *In re Bridgett and Hayes Contract*, and *In re John and Amelia Gibbings*?

With all respect to the Principal Registrar, it seems to me he is trying to reconcile two irreconcilable decisions; that he is disregarding elementary principles of the law of real property.

To try and distinguish the two above-mentioned decisions the learned Registrar treats a settlement similar to the one in the *Gibbings' Case* as one in which the interest of the tenant for life does not cease with her death. "Interest" here must mean beneficial interest, as distinguished from the legal estate in fee simple, which of course in no case ceases with the death of a tenant for life. Mrs. Gibbings was tenant for life with the usual limited power of appointment among her children, which she exercised by appointing to them equally.

Now it has always been an elementary rule of law, as I understand it, that in such a case the appointment, when made, must be read as if it were in the original settlement. To say that, because Mrs. Gibbings had a power to decide by will which of her children should take the land, and in what shares she had an interest not ceasing with her death, is to me an incomprehensible proposition. The moment Mrs. Gibbings died her appointment by will amongst her children equally would be read into her husband's will. Her own interest ceased with her death, just as effectively as if the power of appointment had been vested in and exercised by a third party.

If in a case similar to *Re Bridgett and Hayes* (devise to trustees in trust for wife for life, and on her death upon trust for sale), the general executors of the tenant for life are to swear that there was a settlement, but that it ceased on the death of the tenant for life, how can any real property lawyer, in a case like *Re Gibbings*, justify the S.L.A. trustees, swearing an affidavit which implies, if it does not actually state, that the settlement continues after the death of the tenant for life? The *Gibbings' Case* might have been still simpler. Mrs. Gibbings might have appointed wholly to one child. Yet even in such a case the practice now initiated by the Probate Registry implies that the settlement still continues at the time the grant is made, notwithstanding that the child (assumed to be *sui juris*) is absolutely entitled, subject only to death duties and costs.

Moreover, I submit that, when the learned Registrar uses the expression "vested in a remainder man *absolutely*," to include the case of land devised to trustees upon trust for sale (I find from enquiry that the words actually used "trustees with a power of sale" are intended to comprehend a trust for sale), he is guilty of a misuse of language. In the first place the land has not vested in them; otherwise there would be no necessity for grant of administration and a vesting instrument. Secondly "absolute" means free from condition, and it cannot properly be said that land vested in trustees is free from condition. What is called "an estate in fee simple absolute," may be vested in them, but that is an entirely different thing from land being vested in them absolutely. For this (as I think) improper use of the word "absolutely" the learned Registrar certainly has the sanction of the draftsman of the L.P.A., 1925. "A term of years absolute" used to include a term, which, in nine cases out of ten, is not absolute but subject to condition, is to my mind the most flagrant misuse of language I have ever encountered in legal drafting.

Yours truly,

Ernest I. Watson.

Norwich,
31st December, 1927.

POINTS IN PRACTICE.

Questions from Registered Annual Subscribers are invited and will be answered by some of the most eminent authorities of the day. All questions should be addressed to—The Assistant Editor, "The Solicitors' Journal," 29, Breams Buildings, E.C.4, be typewritten on one side of paper only, and be in triplicate. Each copy to contain the name and address of the subscriber. To meet the conveniences of Subscribers, in matters requiring urgent attention, answers will be forwarded by post if a stamped addressed envelope is enclosed.

Public Health Act, 1875, ss. 4, 94, 96, 98, 104—Abatement of Nuisance—Service of Notice on Rent-collector for Lunatic Tenant for Life in Poor Law Asylum—Collector's Position.

Q. 1090. J S by his will bequeathed to J B three cottages for his life, and after his death to E B. J S died twenty years ago, and his will was proved shortly after. J B is a certified inmate of a poor law mental institution. The rents of the properties have been collected by G a rent-collector, and paid over by him to the clerk to the guardians for maintenance. G has now received a notice from the local authority to execute certain sanitary and drainage works to the property—the notice being served upon him as owner (as defined by s. 4 of the P.H.A., 1875), and as such he may apparently be called upon to execute the works (see *Broadbent* v. *Shepherd* (No. 2), 1901, 2 K.B. 274). In the event of his failing to execute the work and the local authority doing it, will G be personally responsible for payment apart from any assets in his hands? If so, what is his cheapest and most appropriate remedy for recovery of any sum so paid by him? It is possible that the cost of the work may equal the value of the property. Can G avoid liability by resigning his agency (after the service of the notice upon him, but before any proceedings have been taken)?

A. Alverstone, C.J., appears to have assumed in *Broadbent* v. *Shepherd, supra*, that the rent-collector would not be made personally responsible, but, once the notice has been served upon him, his personal responsibility for all the expenses of the local authority as "the person on whom the notice has been served," appears to follow from the wording of ss. 94–96, and 98, even although, as in *Parker* v. *Inge*, 1886, 17 Q.B.D. 584, he may have no right of entry, to execute the works required. It is not stated whether the poor law guardians receive the rents by virtue of an order made under the Lunacy Act, 1890, s. 299 (1), but whether so or otherwise, the collector appears to be their agent, and his simplest plan seems to be to require them to indemnify him in the matter, and to sue them if they fail to do so. Since his personal responsibility to the local authority is fixed there appears to be no advantage in resigning the agency (distinguish *Blything Union* v. *Warton*, 3 B. & S. 352, on a statute differently worded), and some disadvantage by the loss of opportunity to recoup himself, though of course the guardians can hereafter dismiss him according to his contract with them. He should, of course, at once inform both the local authority and the guardians as to the respective sides of the matter unknown to them, and, if they behave with ordinary common sense, he ought to have no trouble as to his position, and in any case, no anxiety.

Deduction of Income Tax from Ground Rent.

Q. 1091. A is an owner in fee simple of an estate. Plots of land of some 100 feet frontage are leased to builders under building agreements in the usual form, e.g., the builder has a right of entry on the land to build houses subject to a peppercorn rent to be paid for a certain period, and thereafter a ground rent at so much a foot frontage; with the usual provision that when any house is completed a lease for a long term will be granted, at a ground rent. Sometimes the houses are completed, the peppercorn period has expired, but no purchaser is found and the house remains unoccupied, the builder paying the ground rent as it becomes due, deducting four shillings in the pound from every £1 of ground rent paid. It is contended that as the houses are unoccupied, no assessment under Sched. A is made on the builder in respect of the houses, and therefore, he has no right to deduct any sum from the total ground rent payable. The builder, of course, refuses to produce any receipt for such income tax deducted, as in fact, he has not paid it. The builder contends that by r. 19 (1) of General Rules applicable to Scheds. A, B, C, D and E, he is entitled to make such deduction; also under miscellaneous rules applicable to Sched. D, he contends that he pays the income tax, he carrying on the business of a builder. Can it be said that the builder's contention is sound?

A. According to "Snellings' Income Tax Practice," 7th Edn. (1926), it was held, in *Barnes* v. *Kyffin*, 1916, that tax is not legally deductible from ground rent before the lessee has himself paid tax to cover, but the practice of deducting tax from each payment remains as before, and in my opinion, it is the correct practice. The tax is upon the ground rent, not upon the house. The lessee is not bound to produce a receipt for the payment of the tax to the Revenue—Court of Appeal decision in *North London and General Property Co.* v. *Moy*, 1918. The lessee should give the lessor a certificate on the Form R. 185. The lessor's income tax return or his claim for repayment will in due course disclose to the revenue that the lessee has retained the tax, and the lessee will then no doubt be asked by the Revenue to account for it.

Bankruptcy—Mortgage Debt paid off by Third Party—Rights of Payer.

Q. 1092. A was adjudicated a bankrupt. At the first meeting of creditors a trustee was appointed. A owned certain property subject to a mortgage. B a friend of A's paid to the trustee sufficient cash to pay the mortgage debt, and all the unsecured creditors in full together with the costs and expenses of the bankruptcy on the understanding that B would have the deeds of the property as security for the amount advanced by him. The mortgagee handed the deeds to the trustee on payment of principal and interest, but no receipt was endorsed on the mortgage. It is now proposed to apply for an annulment of the adjudication order on the ground that all the debts have been paid in full. How should the property be vested in B as mortgagee? Can any assistance be obtained from s. 29 of the B.A., 1914, on the application for annulment?

A. Assuming that A admits the above facts, the simplest plan would appear to be for him and the trustee to direct the mortgagees to assign the mortgage debt to B under the L.P.A., 1925, s. 95 (1), or to execute a receipt in B's favour under s. 115 (1), which would take effect under sub-s. (2). On any annulment under the B.A., s. 29, the court might, of course, give a similar direction under sub-s. (2). In any case the trustee should now deliver the deeds to B, who would then have such rights from the possession of them as he would have had before the new legislation, see L.P.A., 1925, s. 13.

Bequest of Proceeds of Sale of Farm Stock.

Q. 1093. A, a tenant farmer, by his will gave to his sister B "one-half of the proceeds of sale of my farming stock and implements" and gave the residue of his estate to his trustees upon trust for his only child. A died in May possessed of a well-stocked dairy farm. He made cheese and cider on the farm. In the following October the executors sold the farm stock and the remaining hay made on the farm and the grass

feed of the farm until the following Lady Day, when the farm was surrendered by the executors to the landlord in consideration of the payment by the landlord of £—. Between May and October the executors continued the farming business in the usual way in preparation for sale, and during this time cheese was made on the farm with the milk produced thereon, as also was cider with the apples grown on the farm. No directions were given by the will to carry on the farm.

(1) Is B entitled to one-half of—

(*a*) Proceeds of sale of the farm produce (cheese and cider) made subsequent to the date of death of A.

(*b*) Proceeds of sale of hay made on the farm and the grass keep to the following 25th March, when the tenancy was surrendered.

(*c*) Proceeds of sale of calves and pigs born and bred on the farm between May and October.

(*d*) The consideration £— paid by the landlord on the surrender of the tenancy of the farm.

In addition to one-half of the proceeds of sale of cattle, pigs, implements, cheese and cider in stock at the date of sale. If not, to what is B actually entitled, and if the live stock (*a*) appreciated or (*b*) depreciated.

(2) Should B be called upon to pay one-half of the expenses of working the farm, including rent, rates, wages, etc., until the farm was surrendered ?

A. The questioners must not expect an exact precedent to interpret the above bequest. There the testator would not reasonably have expected his executors to sell directly he died, and, until sale, and while they held the farm, it would be their duty to make the best use of it. The opinion is therefore given that half the proceeds of any sale during the executors' year would go to B. In respect of the hay and crops, *Re Roose*, 1880, 17 C.D. 696, might be quoted with some confidence in support of B's claim, and *Burbidge* v. *Burbidge*, 1867, 16 W.R. 76, generally, though perhaps the words there were stronger. *Groves* v. *Wright*, 1856, 2 K. & J. 347, and *Myers* v. *Washbrook*, 1901, 1 K.B. 360, though not directly in point, might perhaps be quoted on behalf of B to show that the natural increase and produce were hers, and against her on the proposition that the fruits of the executors' labours should go to the residuary legatee. The case is one in which the parties should be able to come to an amicable arrangement. In answer to the questions—

(1) (*a*) Yes, subject as above.

(*b*) Yes, following *Re Roose, supra.*

(*c*) & (*d*) Yes also, on the footing that the gift covered the natural increase of stock until sale.

(2) This would be a fair claim on B if she was to receive half the proceeds of sale, but in fact it is difficult to read such a burden into the words of the bequest. The answer must therefore be in the negative, though the " proceeds of sale " might reasonably be held to be the net proceeds deducting auctioneers' fees, etc.

Post-1925 Settlement—Vesting Assent—Sale by Personal Representatives.

Q. 1094. A testator who died in 1927 appointed his two daughters to be his executrices, and after directing all his debts and funeral expenses to be paid, proceeded as follows: " I give and bequeath unto my two daughters the rents, interest and yearly profits of my property to be equally divided between them after the following legacy has been paid my wife to have all the rents interest and yearly profits of my property as long as she lives after her decease the above is to be divided between my two daughters equally as long as they live. If one should outlive the other the share of the deceased shall be equally divided amongst her children. On the decease of both my daughters my property to be sold and equally divided amongst my grandchildren." The wife and daughters are all living and both daughters are married and have young children. The testator's property consists of some freehold (including enfranchised freehold) farms and some personal estate. The daughters are now taking steps to prove the will. It will be noted that the testator did not expressly appoint any trustee of his will.

(1) Is the following the right construction of the will ? The widow has a first life interest in the income of the property and after her decease the income is to be divided between the two daughters equally for life, and on the death of one the income of the deceased daughter will be divisible equally amongst her children, and that on the decease of both daughters the property is to be sold and equally divided amongst testator's grandchildren.

(2) Should a vesting assent in favour of the widow now be executed by the daughters as personal representatives ?

(3) The will being the trust instrument it is presumed that the personal representatives of the testator will hold the real property on trust if and when required to convey it to the person who under the will or the S.L.A. is the tenant for life or statutory owner, and if more than one as joint tenants (S.L.A., 1925, s. 6) ?

(4) If a sale of the real property is desired now this could be effected by the widow as tenant for life, or as having the powers of a tenant for life, under the settlement created by the will the daughters as the personal representatives, acting as trustees of the settlement (S.L.A., s. 30 (3)) ?

A. (1) It seems to be the most reasonable construction.

(2) See (4).

(3) Yes; but only after administration.

(4) Yes; after the execution of a vesting assent by the personal representatives as S.L.A. trustees. But the personal representatives can themselves sell and if an immediate sale is contemplated expense will be saved by their selling (i.e., without the execution of a vesting assent).

Gift—Conveyance by Wife to Husband and Wife Jointly.

Q. 1095. A, a spinster, purchased in June, 1927, a dwelling-house, and immediately mortgaged it to a building society. A has since married, and now desires to give to her husband half the equity of redemption in her dwelling-house. Can A do this by way of deed of gift, or if this is not correct what form of conveyance do you advise ?

A. The best way seems to be for A to convey the property (subject to the mortgage) to herself and her husband in fee simple as joint tenants, the conveyance declaring a trust of the proceeds of sale (subject to the mortgage) as in 1 Prid., 22nd ed., p. 654, cl. 2. The deed should contain appropriate recitals and the stamp ought to be adjudicated.

Settled Land and Settled Share of Proceeds of Sale—Death of Tenant for Life—Title.

Q. 1096. A who was at the time of his death the owner in fee simple of certain premises, and of a half-share as a tenant in common in two other premises, made his will in 1891, whereby he gave all his real estate to his trustees, upon trust to pay the whole of the rents and profits thereof to his son B for life, and upon B's death upon trust for the trustees of a certain chapel absolutely. A died in 1894, and as no trustees were appointed by his will, letters of administration with the will annexed were granted to B in 1896. B died in February, 1927. The official trustee of charity lands on behalf of the chapel trustees has now contracted to sell the property. It is presumed that letters of administration limited to the settled land must be taken out in respect of B's estate, and an assent vesting the property in the official trustee on behalf of the chapel trustees executed by the administrators. As the purchase is only small and some difficulty may be experienced by the vendors' solicitors, in finding persons to take out such letters of administration, it has been suggested that the Purchaser (who is interested with numerous other persons in the other moiety in the property) should accept the title as it stands, but it is submitted that at present the vendors cannot make title to the legal estate

which on 1st January, 1926, vested in and still remains in the estate of the deceased tenant for life. I shall be glad to know whether your views concur and of your opinion as to what form the conveyance of the half-share should take.

A. (1) As to the half-share "in the two other premises": this was held in undivided shares immediately before 1st January, 1926. Hence, L.P.A., 1925, 1st. Sched., Pt. IV, applied thereto, and title to the entirety of these premises can be made under a trust for sale. The share settled on B for life, was not settled land, and no special representation with respect thereto is necessary. A simple conveyance can be made to the purchaser of the share. (2) As to the premises the entirety of which was settled on B for life; this was settled land, and a grant in respect thereto is necessary. Such a grant would be made to the general representatives of B, who could then assent to the vesting of the legal estate in fee simple in the chapel trustees.

Settled Land or land held upon Trust for Sale—Discretionary Trust.—Title.

Q. 1097. By a settlement dated in 1899 A and B held certain scheduled investments (including a freehold house) upon trust "either to retain the same so long as they may think fit or at any time or times with the consent in writing of the settlors to sell or otherwise realise the same," and to pay the income of the trust fund to D during his life with a proviso that if D "shall assign or charge the said income or any part thereof or become bankrupt or have a receiving order made against him," and other events, "the trust hereinbefore declared in favour of" D "shall cease and determine and thenceforth during the life of the said" D "it shall be lawful for the trustees at their absolute discretion to apply the whole or any part of the income of the trust fund" for the benefit of D and his wife and children, if any. D became bankrupt in 1901 and a receiving order was made against him. He was an undischarged bankrupt on 1st January, 1926, and is so now. S.L.A., 1925, s. 103, provides that the legal estates shall not vest in a trustee in bankruptcy, but s. 104 says the powers of a tenant for life are not capable of assignment or release, etc. It is now desired to sell the freehold house and the question is do the trustees still hold the legal estate in it, and can they sell it under their powers of sale with the consent of the settlors without making the bankrupt a party?

A. The opinion here given is that the freehold property was held upon trust for sale: see *Re Crips*, 1905, 95 L.T. 865; *Re Johnson*, 1915, 1 Ch. 435; and was not settled land. See also 1 Wolst & Cherry, pp. 179, 483. Hence the legal estate has remained vested in the trustees throughout.

Assent—Concurrence of Beneficiaries.

Q. 1098. A died intestate in 1927, leaving his widow and three sons (all of age) surviving, and administration has been granted to the widow and one of the sons. The estate consisted of real estate valued at £675 and personal estate (apart from the personal chattels) of about £700. It is intended by the administrators (the other two sons through their solicitor have expressed their consent) that the real estate be transferred to the widow absolutely to satisfy a part of her portion. Is it correctly assumed—

(*a*) That a short assent (in terms of the form No. 3, p. 841, Prid., vol. 3, 22nd ed., adapted for an intestacy) will be quite sufficient to pass all legal estate to the widow?

(*b*) That such assent need not be under seal and therefore attracts no stamp duty?

(*c*) That the consents of the two sons, as beneficiaries need not appear in such assent?

A. All the assumptions are correct.

Class Gift—Lapse—Assent.

Q. 1099. By her will A appointed E and F executors thereof, and, after directing payment of debts, etc., gave and bequeathed "unto my four sisters," B, C, D and E, "my dwelling-house in flats No. . . . to be sold and equally divided amongst my four sisters." The residuary legatees are infants. E was, unfortunately, one of the attesting witnesses, and, therefore, legally can derive no benefit under the will. The three sisters, B, C and D, however, are quite agreeable that she should actually take her one-fourth share. The following points arise:—

(*a*) Was the gift to four sisters a gift to a class, in which case the three sisters will become beneficially entitled (in equity as tenants in common) to the whole? Or—

(*b*) Does the gift to E lapse and, therefore, her one-fourth share in the proceeds form part of the residuary estate?

(*c*) Assuming that (*a*) is answered in the affirmative (in which case (*b*) does not arise), will it be necessary in the vesting assent for the three sisters to join in for the purpose of requesting the executors to vest the property in the four sisters (i.e., B, C and D (consenting parties) of the first part, E and F (the executors and vesting parties) of the second part, and B, C, D and E (the beneficiaries) of the third part?

(*d*) On the same assumption, would the executors (after such assent had been made) be entitled to any form of release from any beneficiary in respect of their having made such assent?

(*e*) The property above referred to (which is leasehold) was obtained by A under her father's will, which is only now being proved by the sole surviving executor, and it is assumed that this surviving executor can assent to a vesting in A's personal representatives, who in turn will deal with it as part of A's estate. Is this so?

A. (*a*) No: *Bain* v. *Lescher* (1840), 11 Sim. 397.

(*b*) Yes: *ib.*, and Wills Act, 1837, s. 15.

(*c*) and (*d*) Do not arise.

(*e*) Yes.

Settled Land — Sale with consent of Reversioners—L.P.A., 1925, s. 42 (1) (*b*).

Q. 1100. A in 1908 conveyed a dwelling-house to the use of his wife for her life, and after his death to the use of himself in fee simple. He died in 1924, having by his will appointed his wife (and one other who predeceased him) executor, and to whom he devised the residue of his real estate (including his reversionary interest in fee in the house) on trust for sale and to pay the income of his residuary estate to his widow for life and on further trusts as therein mentioned. His widow proved the will as surviving executrix and has contracted to sell the house as the personal representative of her deceased husband and to join in the conveyance to the purchaser to release her life estate.

(1) Can the purchaser assume that she can still sell as executrix?

(2) Can the vendor in the same conveyance convey her life estate as beneficial owner and the reversion in fee expectant thereon as personal representative?

(3) In view of the settlement *inter vivos* of 1908, is the land settled land?

(4) Are there any duties payable on the death of the tenant for life which the purchaser should require to be commuted and paid before completion?

A. The house was settled land on 1st January, 1926, under the S.L.A., 1925, s. 1 (1) (i), and the purchaser cannot be bound to take title otherwise than under the Act: see L.P.A., 1925, s. 42 (1) (*b*). Possibly he would obtain a good title under the proposed scheme, but he would obtain a better one, free from all possible equities, under the S.L.A., 1925, and should not be advised to waive his rights unless the purchase money is lowered. In answer to the questions put:—

(1) She can only sell the reversion, an equitable interest, as executrix.

(2) Subject as above, yes.

(3) Yes. And to sell it as such will require the execution of a vesting deed by the trustees for the purposes of the Act, see 2nd Sched., para. 1 (2), and s. 13. Since there do not appear to be such trustees, either all persons interested in the

trust for sale must combine with the widow to appoint under s. 30 (1) (v), or she must apply to the court that they should be appointed under the 2nd Sched., para. 1 (3).

(4) A purchaser would take free from estate duty on the w dow's death, see *A.-G.* v. *Beech*, 1899, A.C. 53, and the L.P.A., 1925, s. 17 (1). The charge for succession duty may have "attached" within the last sub-section, but shifts to the proceeds of sale under the S.D.A., 1853, s. 42. So far as any extra duty is payable by the beneficiaries under A's will on the reversion on his death, they are payable by his executrix as such, so the property is not charged with such duty under the F.A., 1894, s. 9 (1).

Executrix—Purchase of a Beneficiaries' Interest.

Q. 1101. By his will dated in 1879 a testator appointed his widow and a brother executors and trustees thereof, and gave and devised his residue (which included a leasehold house) to them, their heirs, executors, administrators and assigns, upon trust to permit the widow to receive the income thereof during her life and, from and after her decease, upon trust to divide the same equally between his three children in equal shares, and testator empowered his trustees or trustee for the time being to sell the whole or any part of his trust estate as they or he might deem expedient (with consent of widow during her life) and to invest the proceeds as therein mentioned. The will did not appoint any S.L.A. trustees, but declared that it should be lawful for the executors or administrators of the last surviving trustee to appoint a new trustee or new trustees of the will. The testator died in 1881. The brother renounced probate and the widow alone proved the will. Whether the brother renounced the trusteeship also we do not know, but the point seems to be immaterial as he died several years ago leaving the widow surviving. The widow died in July last. The sole executrix of the widow's will is one of the testator's daughters, and she has now obtained a grant of probate thereof, which grant includes the settled land (i.e., the leasehold house). The executrix and another child of the testator have agreed with the third child to purchase his one-third share of the leasehold property, and we are wondering what the necessary steps to carry out the matter should be. It seems to us there must be—

(1) A conveyance by the third child to the two other children of his one-third share in moieties, so that, immediately thereafter, in equity the two children will each be entitled to a moiety of the property. The transaction will, in part, be a purchase by a trustee of a beneficiary's interest;

(2) An assignment from the executrix to herself and the other purchasing child assigning to them, their executors, administrators and assigns, the legal estate in the property to hold as joint tenants on the statutory trusts.

We do not think there need be any document of assent, as an assent from the widow as executrix of the *testator's* will can be assumed, and we rather think none is necessary from the daughter, as executrix of the *widow's* will, but should be glad of guidance on both heads. We suppose it will not be necessary for the daughter to appoint a new trustee or new trustees of the testator's will?

A. What is necessary in this case is one conveyance of the legal estate by the widow's executrix in whom the land formerly settled on the widow is now vested to give effect to a sale by one of the beneficiaries to the two other beneficiaries, one of whom is in a fiduciary position. Form No. XIV in 1 Prid., 22nd ed., could be adapted for the purpose in view; the notes thereto should be observed. The recitals would have to make clear the position in equity. It is a case where equities are properly brought on to the title.

Undivided Shares—Registered Land on 31st December, 1925—Partnership Property—Death of one Partner—Sale of Share to Survivor—Title.

Q. 1102. A and B (being partners) purchased three freehold properties which formed the business premises of the partnership in 1923, 1924 and 1925. The properties being in the London area, were registered, and in two cases the land certificates show as proprietors, as to half to A and as to half to B; in the other case the land certificate shows as proprietors A and B. All the properties were mortgaged. A died in January, 1927, intestate, and letters of administration were granted to the widow, C and B. B, as the surviving partner, is paying out A's share in the partnership assets, and is desirous of taking a transfer of the freehold properties forming part of the partnership assets. One of the mortgages was paid off before 1926, one paid off in January 1927, and one has recently been paid off. The land register will now have to be rectified and to do this it is assumed an appointment of new trustees will have to be made. Did the properties vest in A and B on the 1st January, 1926, as trustees for sale, by virtue of para. 1 (2) of Pt. IV of the 1st Sched. to the L.P.A., 1925. If not (no appointment of trustees having been made) did the property vest in the Public Trustee. Who can appoint new trustees? What precedent could be followed for the necessary appointment?

A. The opinion is here given that the above was a 1 (2) case, and that A and B consequently held upon trust for sale on 1st January, 1926. See also the L.R.A., 1925, s. 78. On the death of A, B would be entitled to be registered as sole proprietor, see r. 172 of the Land Registration Rules, 1925, but A's representatives could and normally should register a caution under s. 54 of the Act and r. 215: see also s. 58 (3) and Form 62 of the Rules. A's representatives, as such, have an equitable or minor interest under the Act, see s. 3 (xv), and, if they could have sold to B, he might have cleared off any caution. Since, however, B is a personal representative of A, he cannot buy A's interest, except by consent of a court: see *re Norrington*, 1879, 13 C.D. 654. Nor could he buy from any body of trustees of which he was one, though he might do so from beneficiaries when the estate is cleared and he and C have assented to the devolution of A's estate. Otherwise, if he wishes to buy his only course is to retire and appoint two ndependent trustees, who can then sell to him. The above opinion, however, is subject to the terms of any partnership deed, and if B is continuing the business, he may avail himself of the Partnership Act, 1890, ss. 20, 39 and 43, to have an account of the assets, including realty, and to pay what may be found due to A's representatives. When that was done, his title as absolute proprietor would be unhampered by minor interests, and he could deal with the property accordingly. The position appears to be that, although B may be entitled to be registered as absolute proprietor under r. 172, the registrar would not register a transfer from him, except to trustees (see s. 47 of the L.R.A., 1925), unless satisfied that the whole equitable interest was vested in him.

Obituary.

Mr. C. C. HODGSON, O.B.E., M.A.

The death is announced, at the age of sixty-seven, of Mr. Chas. Courtenay Hodgson, solicitor, The Courts, Citadel Chambers, Carlisle, clerk of the peace and clerk to the County Council of Cumberland. Mr. Hodgson—who was admitted in 1888—was at first appointed senior assistant in the office of the clerk of the peace for the county. He subsequently received the appointment of clerk to the Cumberland Education Committee, formed soon after the passing of the Education Act, 1902, and in the year 1910 he succeeded his uncle, the late Mr. C. B. Hodgson, as clerk of the peace and clerk to the County Council. Mr. Hodgson was a member of The Law Society.

Mr. C. A. GODFREY.

Mr. Cecil Arnold Godfrey, solicitor, Nottingham, who had been in failing health for some time, died at his residence there on Tuesday, the 20th ult. Mr. Godfrey—who was

admitted in 1908—was a partner in the firm of Godfrey, Berryman & Scott, and carried on practice at Imperial-buildings, Victoria-street, in that city.

Mr. H. SPROTT.

The death occurred suddenly on Tuesday, the 20th ult. of Mr. Herbert Sprott, solicitor, Crowborough, senior member of the firm of Sprott & Sons, of Crowborough and Mayfield, at the age of 45. Admitted in 1894, he held the appointment of clerk to Sir Henry Fermor's Charity, and took a lively interest in various organisations in Crowborough and district, all of which will feel the loss of his support.

Mr. F. ORTON COLLIS.

Mr. Frederick Orton Collis, solicitor, Maidstone—a member of the old-established firm of Messrs. Monckton, Son & Collis, of 72 King-street, Maidstone—died recently at the comparatively early age of fifty-five. Mr. Collis was admitted in 1897.

Mr. E. J. TRUSTRAM, M.A. (Oxon).

Mr. Edward James Trustram, solicitor, who was a member of the firm of Messrs. Halse, Trustram & Co., 61 Cheapside, E.C.2, and Hampstead, died on Saturday, the 24th ult., at the age of sixty-two. Mr. Trustram was educated at Haileybury and Worcester College, Oxford, and admitted in 1889. He was a well-known and popular member of the Common Council of the City of London, having represented the Ward of Cheap since 1910. H.

Reviews.

Trade Union Law and Practice. T. J. Sophian. Demy 8vo, pp. xxiv and 429 (with Index). Stevens & Sons, Ltd., Chancery-lane. £1 net.

Out of the welter of legislation passed in the throes of passionate party conflict, and from the mass of decided cases involving matters highly technical and uncommon, Mr. Sophian has evolved a most useful and workable handbook on trade union law and practice. Probably in no field of statute law has draughtsmanship been so poor and faulty as in that relating to Trade Unions, and the super-heat of the Parliamentary discussions has certainly not made for greater clarity of construction. It is therefore no mean task to write a clear and readable guide helpful alike to lawyer and layman who have to administer the labour laws. But the author of this work has proved successful. We doubt, however, in spite of his able grammatical analysis of the definition of a trade union, to be found in the Act of 1913, whether he will be found to be right in suggesting that any combination which provides benefits for members without more is a trade union. This would cover an ordinary friendly society and a Christmas share-out society. We think it a little unfortunate too that he should have quoted the Attorney-General's gloss as a real summary of what the 1927 Act in fact does. That Act gives enforceable rights to members of a trade union for the first time. It does this without clothing the union with reciprocal rights. It also gives third parties rights of action against the corpus of the union. As these legal rights would seem to be a departure from the general law as to illegal associations (as being in restraint of trade) and also as to mere unincorporated bodies, Mr. Sophian might, with advantage, have elaborated a little more upon his explanation of this part of the 1927 Act. We should also like to have seen a special chapter on picketing and intimidation, apart from conspiracy. Perhaps the hint may be taken for subsequent editions. A valuable chapter deals with civil procedure, and the text of the relevant Acts is included.

Books Received.

The Bombay Law Journal. Vol. V. No. 7. December, 1927. G. M. Pandya. The Maneck Printing Press, An and Nivas, Tribhuvan-road, Bombay 4.

League of Nations. Progressive Codification of International Law. Extracts from the Records of the Eighth Session of the Assembly. Publications of the League of Nations. V: Legal. 1927. v. 28.

The Law of Adoption and Guardianship of Infants with Special Reference to Courts of Summary Jurisdiction; together with the Legitimacy Act, 1926. W. Clarke Hall and Justin Clarke Hall, B.A. (Oxon.). 1928. Large Crown 8vo. pp. xiii and 171 (with Index). Butterworth & Co. (Publishers), Ltd., Bell-yard. 10s. 6d. net.

Valuations and Rating. E. Witton Booth, M.B.E., A.M.Inst. C.E., F.S.I., Barrister-at-Law. 1927. Demy 8vo. pp. xxiii, 392 and (Index) 16. Butterworth & Co. (Publishers), Ltd., Bell-yard. £1 1s. net.

Published Balance Sheets and Window Dressing. Laurence R. Dicksee, M.Com., F.C.A. (Emeritus Professor of Accountancy and Business Methods in the University of London). Demy 8vo. pp. viii and 62 (with Index). 1927. London: Gee & Co. (Publishers), Ltd., Kirby-street. 5s. net.

The Etiquette of the Accountancy Profession. By a Chartered Accountant. With a Foreword by Sir William Plender, Bart., G.B.E., F.C.A. Demy 8vo. pp. vii and 85 (with Index). 1927. London: Gee & Co. (Publishers), Ltd., Kirby-street. 6s. 6d. net.

Complete Practical Income Tax. A. G. McBain, Chartered Accountant. 1927. Third Edition. Demy 8vo. pp. x and 262 (with Index). London: Gee & Co. (Publishers), Ltd., Kirby-street.

The Journal of the Divorce Law Reform Union. No. 85. Vol. 8. January, 1928. Published at 55, Chancery-lane, W.C.2. 2d.

The Journal of the Commons and Footpaths Preservation Society. Vol. 1. No. 1. November, 1927. 7, Buckingham Palace-gardens, Victoria, S.W.1. Annual subscription 5s.

The Law Affecting River Pollution. Being an Account of the Nature of the Problem, the Existing Law, its Achievements and Defects, and Suggestions for Reform. J. O. Tayler, M.A., LL.B., Advocate, with a Foreword by Major Walter E. Elliot, M.C., M.P., Under-Secretary of State for Scotland. Foolscap 8vo. pp. xi and 101 (with Index). 1928. W. Green and Son, Ltd., 2, St. Giles-street, Edinburgh. 3s. net.

University of London, University College. A Century of Jurisprudence. An Address delivered by Professor J. E. G. De Montmorency, being the Eighth of a Series of Centenary Addresses. Demy 8vo. 30 pp. 1927. University of London Press, Ltd., 10-11, Warwick-lane, E.C.4. 1s. net.

Town Planning: Some Legal Aspects. Randolph A. Glen, M.A., LL.B. (Cantab.), being a Series of Articles reprinted from The Solicitors' Journal, with Full Index. Demy 8vo. pp. vii and 60. 1927. The Solicitors' Law Stationery Society, Ltd., London, Liverpool and Glasgow. 2s. 6d. net.

The Lawyer and Banker. Combining the Southern Bench and Bar Review, Title and The Title Men (1915) Chicago, The Banker and Investor (1914), New York, and Central Law Journal (Established 1874). A Journal for Corporation Lawyers and Title Men. Old Series. Vol. CI. New Series, Vol. XX. No. 6. November-December, 1927. Published Bi-monthly by The Lawyers & Bankers' Co., 921-27, Lafayette-street, New Orleans, La. Single copies 75 cents.

THE MIDDLESEX HOSPITAL.

When called upon to advise as to Legacies, please do not forget the Claims of the Middlesex Hospital, which is urgently in need of Funds for its Humane Work.

REPORTS OF CASES.

High Court—King's Bench Division

Farr, Smith & Co., Limited *v.* **Messers, Limited.**

Wright, J. 3rd and 4th November.

SALE OF GOODS—CONTRACT BY PARTNERSHIP FIRM—LIMITED COMPANY FORMED—VERBAL NOVATION—EVIDENCE TO SATISFY S. 4 OF SALE OF GOODS ACT, 1893—COUNSEL'S PLEADING AS "NOTE OR MEMORANDUM"—EARNEST OR PART PAYMENT—PARTNERSHIP DEBTS PAID BY LIMITED COMPANY—SALE OF GOODS ACT, 1893, 56 & 57 Vict. c. 71, s. 4 (1).

A partnership firm which had contracted in writing for the supply of certain goods from the defendants, was unable to meet the account, and in order to raise further capital formed a limited company. By a verbal agreement the limited company agreed to pay the debts of the partnership to the defendants in consideration of the benefit of the partnership's contract with the defendants being transferred to the company. After receiving payment of the debts the defendants denied that there was any contract with the limited company. The partnership brought an action for breach of the written contract, and in their defence the defendants referred to the verbal agreement entered into by the limited company. The action was then reconstituted, the limited company being substituted for the partnership as plaintiffs, and the statement of claim amended and the cause of action based upon terms of the verbal agreement. The defendants pleaded that s. 4 of the Sale of Goods Act, 1893, had not been complied with.

Held, that counsel's pleading in the first action was a sufficient note or memorandum of the subsequent verbal agreement, upon which the plaintiffs in the reconstituted action could rely, and that it was in existence at the commencement of the action brought to enforce the verbal agreement.

In this action the plaintiffs claimed damages from the defendants for the non-delivery of certain wood goods. On the 9th January, 1924, the defendants, who were timber merchants, entered into a contract with the partnership firm of Farr, Smith and Co., box makers, to sell them 150 to 200 cubic fathoms of first quality firewood at prices ranging from £9 10s. to £8 10s. per cubic fathom, to be ready for shipment in September. Payment was to be made by acceptances four months from the date of discharge of each parcel, and delivery was to be made during the season which ended at Christmas, 1924. The firm got into financial difficulty, owing a considerable sum of money to the defendants, and in order to raise more capital a limited company, called Farr, Smith & Co., Ltd., was formed. On the 9th July, 1924, Farr, now a director of the new company, called upon the defendants to discuss the old partnership debts, and it was eventually agreed that if the new company paid these debts to the defendants, they, the new company, should have the benefit of the contract of the 9th January, 1924. On the 15th July, 1924, the limited company paid the defendants a cheque for £200, and accepted bills for £227 5s., £225 19s., and £224 13s., for one, two and three months, which they duly met. The defendants, however, never delivered the goods, and in the correspondence which ensued denied that there was any contract with the limited company. On the 21st February, 1925, the partnership commenced an action for breach of the written contract of 9th January, 1924, claiming £410, being the difference between the contract price and the cost of purchasing Archangel white ends on the 27th October, 1924, being the nearest in quality to the contract goods available in the market at that date. To this action the defendants by para. 3 of their defence said: "On or about 9th July, 1924, plaintiff Farr, partner in Farr, Smith & Co., called upon the defendants and said that he and his firm were unable to meet the sums then due to the defendants by the plaintiffs, that to provide money they had formed a limited company, Farr, Smith & Co., Ltd.; he then orally requested that the defendants, instead of supplying the plaintiffs with the goods under the agreement of 9th January, 1924, would enter into the following agreement: (1) that the defendants would accept £200, to be paid in cash on the following Monday, and the balance by drafts on the said Farr, Smith & Co., Ltd., as to £224 13s. 1d. in one month, as to £225 19s. in two months, and as to £227 5s. in three months; and (2) that the defendants would supply to the new company which had been formed, called Farr, Smith & Co., Ltd., instead of to the plaintiffs, the goods sold under the contract of the 9th January, 1924, and accept that company as buyers of the said goods, and the defendants through their Mr. Goff agreed to this arrangement." Paragraph 5 of the defence pleaded in the alternative that it was an implied term of the agreement of the 9th July, 1924, that Farr, Smith & Co., Ltd., would enter into an agreement or signed contract with the defendants, and that they had failed to do so. The action was then reconstituted, the new limited company being substituted as plaintiffs in place of the partnership firm. The amended form of para. 1 of the statement of claim was as follows: "The plaintiffs, Farr, Smith & Co., Ltd., have suffered damage by reason of the breach by the defendants of an agreement made verbally on or about 9th July, 1924, between the plaintiffs, Farr, Smith & Co., Ltd., and the defendants whereby it was agreed that the defendants instead of the partnership firm with certain goods under an agreement in writing of 9th January, 1924, would supply to the plaintiffs, Farr, Smith & Co., Ltd., the said goods sold under the contract of 9th January, 1924, and accept the plaintiffs, Farr, Smith and Co., Ltd., as buyers of the said goods." By their defence and the amended pleading the defendants pleaded that s. 4 of the Sale of Goods Act, 1893, had not been complied with, and repeated the alternative plea contained in para. 5 of their original defence. Section 4 (1) of the Sale of Goods Act, 1893, states: "A contract for the sale of any goods of the value of £10 or upwards shall not be enforceable by action unless the buyer shall accept part of the goods so sold and actually receive the same, or give something in earnest to bind the contract, or in part payment, or unless some note or memorandum in writing of the contract be made and signed by the party to be charged or his agent in that behalf."

WRIGHT, J., giving judgment, referred to counsel for the defendants' reliance on s. 4 of the Sale of Goods Act, 1893, and counsel for the plaintiffs' contention that the Statute had been complied with in three ways: that counsel's pleading to the partnership's claim was a note or memorandum of the contract of 9th July, 1924, upon which the limited company could rely, and that the payment by the limited company of the partnership's debts to the defendants was either earnest or part payment. His lordship held that counsel's pleading did contain a complete and correct note or memorandum of the bargain entered into verbally on the 9th July, 1924, but that the matter did not rest there because a further point had to be considered. It had been held that a note or memorandum of a contract in order to be relied upon must be in existence at the time the action was brought, and in *Lucas* v. *Dixon*, 22 Q.B.D. 357, Fry, L.J., said that if it came into existence during the action the plaintiff in order to use it must discontinue and commence another action. The rule was well fixed, but in the present case the plaintiffs had thought fit, instead of discontinuing the action which was originally brought in the name of the firm, to take the course which was now permissible under modern procedure, and they had struck out the original plaintiffs, the partnership, and substituted the present plaintiffs, the limited company. They had altered the cause of action because whereas the original action was on the contract of the 9th January, 1924, between the firm and the defendants, the present proceedings were on a different contract, namely, the verbal one of the 9th July, between the limited company and the defendants. Under these circumstances he had to determine in what sense the rule laid down in

Lucas v. *Dixon* was to be applied to the present case, and he held that the memorandum relied upon, para. 3 of the original defence, was in existence at the commencement of the action which was brought to enforce the contract of the 9th July. He came to this conclusion because until the proceedings were reconstituted there was no action to enforce the contract now in issue, and he thought that it ought to be held, so far as the rule which he was considering was concerned, that when there was an entirely new departure in the way of the parties and cause of action, that ought to be treated as the commencement of the action. Russell, J.'s decision in *Grindell* v. *Bass*, 1920, 2 Ch. 487, gave some support to the view he had expressed as to the true meaning to be attached to the words "commencement of the action." As to the contention of counsel for the plaintiff that there was earnest to bind the contract, it was difficult to obtain a precise definition of what earnest was. It possessed certain characteristics, however. It seemed to be clear that earnest must be a tangible thing. He did not think that on the facts of the present case there was anything which could be held to be an earnest. There was nothing given at the time the contract was made to bind the bargain, there was a promise to give a cheque and a promise to accept and meet certain bills, but there was nothing given at the time of the conclusion of the contract with the object and intention of binding the bargain. As to the contention in the alternative that these payments constituted part payment to satisfy s. 4, he (his lordship) gave leave to the plaintiffs to amend their claim and allege the terms set out in para. 3 of the original defence. He found that the contract so set out stated the complete terms of the agreement of the 9th July, 1924. He held that the bargain was for the sale of goods, and that the consideration moving from the plaintiffs to the defendants was not merely the terms of payment of the original contract, but also the promise to pay the cheque for £200 and the three drafts. The contract was not finally repudiated by the defendants until the 15th December, 1924, at the earliest. He arrived at the estimate of damages by accepting the evidence which had been given of a rise of £1 to £1 10s. per cubic fathom in the price of firewood at the end of 1924. Judgment was entered for the plaintiffs for £300, with costs.

COUNSEL: *Schiller*, K.C., and *Simpson Pedler*, for the plaintiffs; *Pitman*, K.C., and *Harold Stranger*, for the defendants.

SOLICITORS: *Woodham Smith & Borradaile; Trinder, Kekewich & Co.*

[Reported by CHARLES CLAYTON, Esq., Barrister-at-Law.]

Pendle and Rivett, Ltd. *v.* **Ellerman Lines, Ltd.**
Mackinnon, J. 15th November.

CARRIAGE OF GOODS BY SEA—CASE PILFERED—CONTENTS LOST—CONTRADICTION IN BILL OF LADING—CARRIER'S LIABILITY—ONUS OF PROOF—LIMITED LIABILITY—CARRIAGE OF GOODS BY SEA ACT, 1924, 14 & 15 Geo. 5, c. 22, Sched., Art. III, r. 3 (*b*), and r. 4; Art. IV, r. 2 (*q*); Art IV, r. 5.

The contents of a case shipped for carriage between London and Piræus were lost in transit. In an action by the shippers for damages for their value, held, that the carriers had failed to discharge the onus laid upon them by Art. IV, r. 2 (q), of the Schedule to the Carriage of Goods by Sea Act, 1924, to show that the loss did not result from their fault or privity, or from the fault or neglect of their agents or servants.

Held, also, that by reason of the failure of the shippers to insert the value of the contents of the case in the bill of lading, the carrier's liability was limited to £100 as provided by Art. IV, r. 5, of the Act.

The plaintiffs in this case, Pendle and Rivett, Ltd., in September, 1926, shipped on the defendants' steamship "Destro" two cases, stated to contain wool and silk piece goods, for carriage from London to Piræus. On discharge and delivery at Piræus one case was intact but the other had been tampered with and was found to contain nothing but a bundle of French illustrated newspapers. The plaintiffs claimed from the defendants, Ellerman Lines, Ltd., £256 8s. 1d. damages, being the value of the goods lost. By their defence the defendants said that the bill of lading, which they admitted, contained provisions that "weight contents value and quality" were unknown; that the contract was subject to the Carriage of Goods by Sea Act, 1924, and the rules in the Schedule thereto; and that nothing in the rules or the bill of lading should deprive the defendants of the benefit of all statutory limitations or exemptions conferred on them or the ship. They relied upon Art. IV, r. 5, of the Act, and stated that in any event the plaintiffs could not recover more than £100, because the nature and value of the goods had not been inserted in the bill of lading. The bill of lading stated the number of packages and their weight when shipped, but also contained a clause "weight unknown" (*supra*). By r. 4 of Art. III of the Act of 1924, "such a bill of lading shall be *prima facie* evidence of the receipt by the carrier of the goods as therein described in accordance with paragraph 3 (*a*), (*b*) and (*c*)." Sub-section (*b*) of r. 3 provides that the bill of lading must show, *inter alia*, "either the number of packages or pieces, or the quantity or weight, as the case may be, as furnished in writing by the shipper." The defendants also pleaded that if the goods had been lost while in their custody the loss was not due to any actual fault or privity on their part, or to any fault or neglect of their agents or servants.

MACKINNON, J., giving judgment, said that the bill of lading stated that two cases had been shipped of a specified weight, but then also went on to say "weight unknown," and that it was subject to the provisions of the Carriage of Goods by Sea Act, 1924. He referred to the facts, and to the defendants' contention that they had discharged the onus laid on them by r. 2 (*q*) of Art. IV, by showing that the cases had been carried in the lower hold, surrounded by other cargo, the inference being irresistible that the case must have been emptied before being shipped. He was of the opinion that the statement as to the number of packages was *prima facie* evidence against the defendants under r. 4, Art. III, and that the statement of weight must be considered as cancelled out by the subsequent statement in the bill of lading "weight unknown." On the whole of the evidence he was satisfied that the case was full when put on board; and since the defendants had not discharged the onus laid upon them by r. 2 (*q*) of Art. IV of the Act, of showing that the loss was not occasioned by any fault or neglect of their agents or servants, there must be judgment for the plaintiffs. The plaintiffs, however, by not inserting the value of the goods in the bill of lading, had not fulfilled all the requirements of r. 5, Art. IV, which enacts, "Neither the carrier nor the ship shall in any event be or become liable for any loss or damage to or in connection with the goods in an amount exceeding £100 per package . . . unless the nature and value of such goods . . . have been inserted in the bill of lading," and in consequence could only recover £100. There was judgment accordingly for the plaintiffs for that sum, with costs.

COUNSEL: *Harry Atkins* for the plaintiffs; *James Dickinson* for the defendants.

SOLICITORS: *Constant & Constant; William A. Crump and Son.*

[Reported by CHARLES CLAYTON, Esq., Barrister-at-Law.]

The attention of the Legal Profession is called to the fact that the PHŒNIX ASSURANCE COMPANY Ltd., Phœnix House, King William Street, London, E.C.4 (transacting ALL CLASSES OF INSURANCE BUSINESS), invites proposals for Fidelity Guarantee and Court Bonds, Loans on Reversions and Life Interests. Branch Offices at Byron House, 7, St. James's Street, S.W.1; 187, Fleet Street, E.C.4; 20-22, Lincoln's Inn Fields, W.C.2; and throughout the country.

NOTES OF CASES.

House of Lords.

"The Mostyn." 19th December.

SHIPPING—DOCKS—DAMAGE BY VESSEL TO DOCK—ABSENCE OF NEGLIGENCE—LIABILITY OF SHIPOWNER—HARBOURS, DOCKS AND PIERS CLAUSES ACT, 1847, s. 74.

A shipowner may be answerable for damages under s. 74 of the Harbours, Docks and Piers Clauses Act, 1847, although there is no proof of actual negligence.

River Wear Commissioners *v.* Adamson, 2 App. Cas. 743, *considered.*

This was an appeal from an order of the Court of Appeal, 1927, P. 25. The action was brought by the appellants, the Great Western Railway Company, to recover an agreed sum for damage done by the anchor of the respondents' steamship to electric cables lying at the bottom of the appellants' dock at Swansea. The court below held (1) that there was no negligence on the part of "The Mostyn"; (2) on the authority of *River Wear Commissioners* v. *Adamson, supra,* that, in the absence of proved negligence, s. 74 of the Act of 1847 imposed no liability on the shipowner towards the dock undertakers.

Lord HALDANE agreed with the courts below that negligence was not proved and passed to "the very serious question of law" raised on the assumption that actual negligence had not been proved. The question which they had to answer was whether in a case in which neither negligence nor any other act of an unlawful nature had been established against the shipowners or those in charge of the vessel, s. 74 made the owners answerable for the damage done to the dock. In the present case there was no negligence, and it was therefore important to see whether the grounds of the decision in *River Wear Commissioners* v. *Adamson, supra,* laid down any principle which was held to take the case outside the words of the statute. After reviewing in detail the reasoning of the several lords who took part in that decision, he said that their lordships in the present case appeared to be bound by the authority of the *Adamson Case* to hold that the section in question was not to be read literally, but as applying when the damage had been brought about by a vessel under the direction of the owners, whether negligent or not. When there were facts to which it applied it effected an alteration in the common law which imposed a new liability on the owner, and to that extent changed not only procedure but also substantive law. He thought they must find the owners liable and give judgment for the appellants.

Lords SHAW and BLANESBURGH gave judgment to the same effect.

Lords DUNEDIN and PHILLIMORE differed.

COUNSEL: *Raeburn,* K.C., and *Wilfrid Lewis; Langton,* K.C., and *Carpmael.*

SOLICITORS: *A. G. Hubbard; Ingledew, Sons & Brown,* for *Ingledew, Sons & Crawford,* Swansea.

[Reported by S. E. WILLIAMS, Esq., Barrister-at-Law.]

Canadian Pacific Railway Co. *v.* **Kelvin Shipping Co.**

19th December.

SHIPPING—COLLISION—DAMAGES—SUBSEQUENT NEGLIGENCE—*Novus Actus Interveniens.*

This was an appeal from an interlocutor of the Second Division of the Court of Session in Scotland. A collision occurred in the Clyde between the appellants' steamship and the respondents' steamship. The appellants admitted sole liability for the collision, but subsequently disputed part of the respondents' claim for damages on the ground that the damage in dispute was not the direct and natural result of the collision, but of subsequent negligence on the part of the respondents.

Lord HALDANE, in delivering judgment, said the question was whether after the original fault there had been a *novus actus interveniens* which was the direct cause of the final damage. He thought that it had not been proved that there was such a *novus actus.* The burden lay on the negligent ship to show by clear evidence that the subsequent damage arose from negligence or great want of skill on the part of those on board the damaged vessel. In order to discharge that burden they must prove that the breach in the chain of causation was due to unwarrantable action and not merely to action on an erroneous opinion by people who had *bona fide* made a mistake while trying to do their best, which was all that was shown to have happened in the present case. The appeal should be dismissed with costs.

Lords SHAW and BLANESBURGH concurred, and Lords DUNEDIN and PHILLIMORE differed.

COUNSEL: *The Dean of Faculty* (*Sanderson,* K.C.), *Langton,* K.C., *Normand,* K.C., and *G. Guest; Carmont,* K.C., *James Stevenson* and *A. W. Grant.*

SOLICITORS: *W. A. Crump & Son,* for *Maclay, Murray and Spens,* Glasgow, and *J. & J. Ross,* Edinburgh; *Botterell and Roche,* for *Fyfe, MacLean & Co.,* Glasgow, and *Beveridge, Sutherland & Smith,* Edinburgh.

[Reported by S. E. WILLIAMS, Esq., Barrister-at-Law.]

Court of Appeal.

No. 1.

Graigola Merthyr Co. Ltd. *v.* **Swansea Corporation.**

Lord Hanworth, M.R., Sargant and Lawrence, L.JJ.

15th December, 1927.

LOCAL GOVERNMENT—ACTION AGAINST LOCAL AUTHORITY—JUDGMENT FOR DEFENDANTS—RIGHT TO COSTS AS BETWEEN SOLICITOR AND CLIENT—WHETHER APPLICABLE TO *Quia Timet* ACTION—MEANING OF "ACT DONE"—PUBLIC AUTHORITIES PROTECTION ACT, 1893, 56 & 57 Vict., c. 61, s. 1 (6).

Appeal from a decision of Tomlin, J.

The plaintiffs brought a *quia timet* action against the defendants, seeking an injunction to restrain the defendants from filling a certain reservoir, which, it was feared, might cause water to leak through into the plaintiffs' mines. Tomlin, J., not being satisfied that the filling would injure the mines, dismissed the action with costs. Section 1 of the Public Authorities Protection Act, 1893, provides that in an action "for any act done . . . in pursuance or execution . . . of any public duty or authority, or in respect of any alleged neglect or default in the execution of any such . . . duty or authority, the following provisions shall have effect:—

". . . (*b*) Wherever in any such action a judgment is obtained by the defendant, it shall carry costs to be taxed as between solicitor and client . . ."

THE MASTER proposed to allow costs to the defendants on that scale, but an application was made to Tomlin, J., to direct party and party costs, on the ground that the Act of 1893 did not apply to a *quia timet* action, there being no "act done" by the defendants, but merely the anticipation that an act would be done. Tomlin, J., declined to accede to the application. The plaintiffs appealed.

The court dismissed the appeal.

Lord HANWORTH, M.R., referred to *Harrop* v. *Ossett Corporation,* 1898, 1 Ch. 525; *Holford* v. *Acton U.D.C.,* 1898, 2 Ch. 240; *Southwark and Vauxhall Water Co.* v. *Wandsworth Board of Works,* 1898, 2 Ch. 609, and other cases, and said that orders for costs as between solicitor and client had been made in *quia timet* actions. To narrow the expression "any act done" to cases in which the act complained of had been actually completed, was not taking the right view of the statute.

SARGANT and LAWRENCE, L.JJ., delivered judgments to the same effect.

COUNSEL: *Upjohn*, K.C., and *A. T. James*, for the appellants; *Sir Leslie Scott*, K.C., and *Valentine Holmes*, for the respondents.

SOLICITORS: *Beamish, Hanson, Airy & Co.*, for *Gwilym James, Llewellyn & Co.*, Merthyr; *Peter Thomas & Clark*, for *H. Lang Coath*, Swansea.

[Reported by G. T. WHITFIELD-HAYES, Esq., Barrister-at-Law.]

In re Wheater.

Lord Hanworth, M.R., Sargant and Lawrence, L.JJ.
12th December.

LUNACY—JURISDICTION—RECEIVER OF LUNATIC'S ESTATE—ORDER FOR PAYMENT TO LUNATIC'S CREDITORS—DEATH OF LUNATIC BEFORE DRAWING UP OF ORDER—CESSER OF JURISDICTION IN LUNACY AND RECEIVER'S POWERS.

Appeal from a decision of Master Hildyard in Chambers.

H. Wheater was certified as a lunatic in 1924, and a receiver of his estate was appointed, with leave to carry on the lunatic's business of a builder. In 1925, £4,000 was distributed amongst the lunatic's creditors generally, and in 1926 a further £4,000 was allocated to his creditors since the date of the receivership order. On 26th May, 1927, an order was made to raise £1,800 by the sale of War Stocks in the lunatic's estate, and to divide that sum also amongst the creditors after the date of the order. The lunatic died on 29th May, before the order had been drawn up. His executors took out a summons in the administration of his estate in lunacy, asking for an order for the final winding up of the lunatic's estate, and a transfer of the assets to them. The master in chambers refused to make the order, except upon terms that the order made on 26th May should be drawn up and carried out, and the £1,800 distributed as the order provided. The executors declined to agree to these terms, and appealed against the decision.

The Court allowed the appeal.

Lord HANWORTH, M.R., said that the receiver was introduced in lunacy as in effect the agent of the lunatic, the latter being always regarded as the principal. The recovery of the lunatic would end the agency as would also the death of the lunatic, the court only having jurisdiction so long as the lunatic remained alive and insane. The order of 26th May had been made while the lunatic was alive, but it had not been perfected, and so the cesser of jurisdiction made it inoperative. It was suggested that the creditors, who would have had the £1,800, had some rights in regard to that sum, but they were not represented at the making of the order of 26th May, it was not made through any agreement with them, and it could have been rescinded or varied without consulting them. The lunacy jurisdiction ceased with the death, and the receiver had no power to go on with the matter and make the payment of the £1,800.

SOLICITORS: *W. F. Foster & Newton; Batchelor, Pirkis and Fry; Bulcraig & Davis.*

COUNSEL: *Jenkins*, K.C., and *Harold Simmons*, for the appellants; *Owen Thompson*, K.C., and *P. B. Morle*, for creditors entitled to share in the £1,800; *Tomlin*, for other creditors who would have shared.

[Reported by G. T. WHITFIELD-HAYES, Esq., Barrister-at-Law.]

In re Brooks; Public Trustee *v.* Wright.

Lord Hanworth, M.R., Sargant and Lawrence, L.JJ.
6th December.

WILL — CONSTRUCTION — LIFE INTEREST — REMAINDER TO TESTATOR'S CHILDREN OR THEIR "PERSONAL REPRESENTATIVES"—WHETHER EXECUTORS OR NEXT OF KIN.

Appeal from a decision of Eve, J., upon an originating summons. I. T. Brooks, by his will, dated in 1921, gave a life interest in his residuary estate to his widow, and after her death directed his trustees to divide it equally between his seven children. In the case of a child having died, either in his own lifetime or in that of the widow, he directed that the share of that child should be held for that child's "personal representatives." The testator died in 1921, his widow in 1926, and this summons was taken out to determine whether, in regard to the remainder, "personal representatives" was to be construed, according to its usual meaning, as executors and administrators, in which case the gift to each child in remainder would be an absolute gift, or whether it meant next of kin, in which case each child would only take a life estate. Eve, J., basing his decision on the cases of *Bridge* v. *Abbott*, 3 Bro. C.C. 224, and *Cotton* v. *Cotton*, 8 L.J. Ch. 349, by which he thought he was bound, decided that the words meant next of kin. Representatives of the children of I. T. Brooks appealed.

The Court allowed the appeal, holding that there must be something very clear in a will to enable the court to construe words differently from their usual meaning. Next of kin were not as a rule "representative" in any sense. *Bridge* v. *Abbott*, *supra*, and *Cotton* v. *Cotton*, *supra*, were not regarded with favour in the later authorities and they must be regarded as overruled. The construction of similar words in *In re Crawford's Trusts*, 2 Drew. 230, was preferable, and from the authorities as a whole it was more rational to construe "personal representatives" as meaning executors and administrators, which had the effect of making the gift to each child a vested interest.

COUNSEL: *Hughes*, K.C., and *Potts* for the appellants; *G. G. Solomons* for grandchildren of the testator; *Stamp* for the executor.

SOLICITORS: *Ford, Lloyd & Co.; A. W. Lemon.*

[Reported by G. T. WHITFIELD-HAYES, Esq., Barrister-at-Law.]

High Court—King's Bench Division

Goole and Hull Steam Towing Co., Ltd. *v.* Ocean Marine Insurance Co., Ltd. Mackinnon, J. 5th December.

MARINE INSURANCE—COLLISION—BLAME EQUALLY DIVIDED—COST OF REPAIRS—IN EXCESS OF INSURANCE—AVERAGE ADJUSTMENT—LIMIT OF UNDERWRITERS' LIABILITY—MARINE INSURANCE ACT, 1906, 6 & 7 Edw. 7, c. 41, s. 69 (1), s. 79 (2).

A steamship, the "Goole," belonging to the plaintiffs, was insured with the defendants for £4,000. She collided in the River Thames with the steamship "Delphinus." The cost of repairs to the plaintiffs' vessel consequent upon the damage caused by the collision was £5,000. In an action in the Admiralty Court both vessels were found equally to blame for the collision, and the "Delphinus" contributed £2,500 as her share of the cost of the repairs to the insured vessel. In an action brought to decide for what sum the underwriters were liable under the £4,000 policy, it was held that they must be credited with the £2,500 recovered from the "Delphinus," and were therefore only liable for the policy sum of £4,000 less the £2,500 recovered—namely, £1,500.

MACKINNON, J., in the course of his judgment, said that by s. 69 (1) of the Marine Insurance Act, 1906, the plaintiffs were entitled to the reasonable cost of repairs, not exceeding the sum insured. The question was what effect had the recovery of the £2,500 from the other vessel upon their claim under their insurance. The underwriters submitted that they were only liable for £1,500, that was, for the £4,000 under the policy less the £2,500 recovered from the other ship. In his opinion the underwriters were right. In the case of a total loss their right would have been clear, and he could not see any difference between the case of a total loss and partial loss. Judgment was given for the defendants, with costs.

COUNSEL: *Raeburn*, K.C., and *Sir Robert Aske*, for the plaintiffs; *A. T. Miller*, K.C., and *Mitchison*, for the defendants.

SOLICITORS: *Holman, Fenwick & Willan; Waltons & Co.*

[Reported by CHARLES CLAYTON, Esq., Barrister-at-Law.]

Rules and Orders.

THE COUNTY COURTS BANKRUPTCY AND COMPANIES JURISDICTION ORDER, 1927.

DATED 10th OCTOBER, 1927.

I, George Viscount Cave, Lord High Chancellor of Great Britain by virtue of the powers vested in me by section 96 of the Bankruptcy Act, 1914,(*a*) section 131 of the Companies (Consolidation) Act, 1908,(*b*) and rule 127 of the Bankruptcy Rules, 1915,(*c*) and of all powers enabling me in this behalf, Do hereby Order as follows :—

1. For the purpose of jurisdiction in bankruptcy and in proceedings under the Companies (Consolidation) Act, 1908—

(i) the district of the County Court of Durham held at West Hartlepool shall cease to be attached to the County Court of Durham held at Sunderland and shall be attached to the County Court of Durham held at Stockton-on-Tees ;

(ii) the district of the County Court of Yorkshire (North Riding) held at Stokesley and Guisborough shall cease to be attached to the County Court of Durham held at Stockton-on-Tees and shall be attached to the County Court of Yorkshire (North Riding) held at Middlesbrough ; and

(iii) the district of the County Court of Yorkshire (North Riding) held at Whitby shall cease to be attached to the County Court of Durham held at Stockton-on-Tees and shall be attached to the County Court of Yorkshire (North Riding) held at Scarborough.

2. Nothing in this Order shall affect the jurisdiction of the County Courts of Durham held at Stockton-on-Tees and Sunderland, to deal with matters pending in those Courts, respectively, on the 31st day of December, 1927.

3. This Order may be cited as the County Courts Bankruptcy and Companies Jurisdiction Order, 1927, and shall come into operation on the 1st day of January, 1928, and the County Courts (Bankruptcy and Companies Winding-Up) Jurisdiction Order, 1899,(*d*), as amended, shall have effect as further amended by this Order.

Dated the 10th day of October, 1927.

Cave, C.

(*a*) 4–5 G. 5. c. 59. (*b*) 8 E. 7. c. 69. (*c*) S. R. & O. 1914 (No. 1824), I, p. 41. (*d*) S. R. & O. Rev. 1904, III, County Court, E., p. 78 (1899, No. 351).

THE RULES IN LUNACY (PERCENTAGE AND FEES), 1927. DATED 10th AUGUST 1927.

I, George Viscount Cave, Lord High Chancellor of Great Britain, with the concurrence of the Lords Commissioners of His Majesty's Treasury, Do hereby in pursuance and execution of the powers given by section 148 of the Lunacy Act, 1890,(*a*) make the following Rules :—

1. The proviso to each of the Rules numbered 126 and 127 in the Rules in Lunacy, 1892,(*b*) shall be annulled and the following proviso shall be substituted therefor in each case —

"Provided that the percentage under this Rule shall not be levied in the case of any person to whom a pension has been awarded by the Minister of Pensions or by any other competent public Pensions authority in the British Empire in respect of unsoundness of mind attributable to or aggravated by service in the War to which section 2 of the War Pensions Act, 1920,(*c*) applies."

2. The following proviso shall be added to Rule No. 129 in the Rules in Lunacy, 1892 :—

"Provided also that the fees payable under this Rule shall not be payable in the case of any person to whom a pension has been awarded by the Minister of Pensions or by any other competent public Pensions authority in the British Empire in respect of unsoundness of mind attributable to or aggravated by service in the War to which section 2 of the War Pensions Act, 1920, applies."

3. Rule 1 of these Rules shall apply to all accounts passed after the 31st day of July, 1927, and Rule 2 shall take effect on the 1st day of September, 1927.

4. These Rules may be cited as the Rules in Lunacy (Percentage and fees), 1927, and the Rules in Lunacy, 1892, as amended shall have effect as further amended by these Rules.

Dated the 10th day of August, 1927.

Cave, C.

We concur { *F. C. Thomson.* / *David Margesson.*

(*a*) 53-4 V. c. 5. (*b*) S.R. & O. Rev., 1904, VIII, Lunatic, E., p. 1. (*c*) 10-1 G. 5. c. 23.

THE COUNTY COURT BANKRUPTCY AND COMPANIES JURISDICTION (No. 2) ORDER. DATED DECEMBER 1, 1927.

I, George Viscount Cave, Lord High Chancellor of Great Britain by virtue of the powers vested in me by section 96 of the Bankruptcy Act, 1914,(*a*) section 131 of the Companies (Consolidation) Act, 1908,(*b*) and rule 127 of the Bankruptcy Rules, 1915,(*c*) and of all powers enabling me in this behalf, Do hereby Order as follows :—

1. For the purpose of jurisdiction in bankruptcy and in proceedings under the Companies (Consolidation) Act, 1908, the district of the County Court of Durham held at South Shields and Jarrow shall cease to be attached to the County Court of Northumberland held at Newcastle-upon-Tyne and shall be attached to the County Court of Durham held at Sunderland.

2. Nothing in this Order shall affect the jurisdiction of the County Court of Northumberland held at Newcastle-upon-Tyne, to deal with matters pending in that Court, on the 31st day of December, 1927.

3. This Order may be cited as the County Courts Bankruptcy and Companies Jurisdiction (No. 2) Order, 1927, and shall come into operation on the 1st day of January, 1928, and the County Courts (Bankruptcy and Companies Winding-Up) Jurisdiction Order, 1899,(*d*) as amended, shall have effect as further amended by this Order.

Dated the 1st day of December, 1927.

Cave, C.

(*a*) 4–5 G. 5. c. 59. (*b*) 8 E. 7. c. 69.
(*c*) S.R. & O. 1914 (No. 1824), I. p. 41.
(*d*) S.R. & O. Rev. 1904, III County Courts, E., p. 78 (1899, No. 351).

THE LAND CHARGES FEES ORDER, 1927.

DATED 23RD DECEMBER, 1927.

I, George Viscount Cave, Lord High Chancellor of Great Britain by virtue and in pursuance of the Land Charges Act, 1925,(*a*) as amended by section four of the Law of Property (Amendment) Act, 1926,(*b*) and with the concurrence of the Lords Commissioners of His Majesty's Treasury do hereby make the following general rules as to fees :—

1. The Land Charges Fees Order, 1926,(*c*) shall be annulled, and the fees set forth in the First Schedule hereto shall be taken under the said Act subject to the Regulations contained in the Second Schedule hereto :

2. These Rules may be cited as the Land Charges Fees Order, 1927, and shall come into force on the 1st day of January, 1928.

Dated the 23rd day of December, 1927.

Cave, C.

W. Cope, *F. C. Thomson*, } Lord Commissioners of His Majesty's Treasury.

FIRST SCHEDULE.

	Scale of Fees.		*s.*	*d.*
1.	Registration	per name	1	0
2.	Priority Notices	per name	1	0
3.	Entry of satisfaction, cesser, discharge, vacation, or cancellation of a registration	per name	1	0
4.	Certificate of satisfaction, cesser or discharge		0	6
5.	Renewal of registration	per name	0	6
6.	Modification or rectification of an Entry	per name	1	0
7.	Personal Search in the Alphabetical Index	per name	1	0
8.	Personal Search in any Register	per name	1	0
9.	Official Search in the Alphabetical Index (including issue of Certificate)	per name	1	6
10.	Official Search in any one of the Registers (including issue of Certificate)	per name	1	6
11.	Office copy of any entry in any of the Registers (not including a copy or extract of any plan or document filed in the Registry)		1	6
12.	Office copy of any plan or other document filed in the Registry such further fee, according to the time and labour employed, as the Registrar shall prescribe			
13.	Expediting an Official Search (Additional Fee)	per application	2	6
14.	Telegraphing or Telephoning the result of an Official Search (which includes the cost of the telegraph or telephone if such cost does not exceed 1*s.*)	per message	1	6

SECOND SCHEDULE.

Regulations as to Fees.

1. All fees except those payable in respect of registration under sub-section (6) of section 10 of the Land Charges Act,

1925 (as amended), shall be prepaid by Land Registry stamps.

2. The fees payable in respect of applications delivered at the Registry by *post* shall be prepaid by *adhesive* Land Registry stamps which may be obtained at head Post Offices in England and Wales and at sub-offices which transact money order business.

3. The fees payable in respect of applications lodged in person at the Registry may be prepaid by adhesive Land Registry stamps or by Land Registry stamps impressed by the Commissioners of Inland Revenue at the Registry. Impressed stamps may be paid for by cash or by cheque, postal or money order, made payable to H.M. Commissioners of Inland Revenue.

4. All fees in respect of registration under sub-section (6) of section 10 of the Act shall be prepaid in cash at the local deeds Registry or by cheque, postal or money order, made payable to the Registrar of the appropriate deeds Registry.

5. If a fee in excess of the prescribed fee is paid on, or is forwarded with, an application to the Registry, no refund of the amount of the excess may be claimed from the Registry.

6. Where the amount of the fee is not defined, or immediately ascertainable, such deposit shall be made as the Registrar shall direct.

7. The fees prescribed for expediting an official search and for telegraphing or telephoning the result of the search shall not apply to the local deeds registries and no right to make an application to a local deeds Registrar for these purposes shall be implied.

8. Where the Registrar, in the exercise of his discretion, authorises an application, search or official certificate of search to be made or granted in a manner which involves a reduction of fees, he may require such fees to be paid, having regard to the time and labour involved or likely to be involved, not exceeding the fees which would have been payable had his discretion not been so exercised, as he may think reasonable.

(*a*) 15-6 G. 5, c. 22. (*b*) 16-7 G. 5, c. 11. (*c*) S.R. & O. 1926 (No. 793), p. 736.

THE LAND REGISTRY (MIDDLESEX DEEDS) FEE ORDER, 1927.

DATED 23rd DECEMBER, 1927.

I, George Viscount Cave, Lord High Chancellor of Great Britain, with the concurrence of the Lords Commissioners of His Majesty's Treasury, by virtue and in pursuance of the Middlesex Registry Act, 1708,(*a*) and of the Land Registry (Middlesex Deeds) Act, 1891,(*b*) as amended by the Law of Property Act, 1925,(*c*) and of all other powers and authorities enabling me in that behalf, hereby make the following Rules with respect to fees :—

1. The Land Registry (Middlesex Deeds) Fee Order, 1925,(*d*) shall be annulled and the fees contained in the Schedule to this Order shall be paid under the above Acts.

2. Fees may be paid by adhesive Land Registry stamps which may be purchased at Head Post Offices in England and Wales and at sub-offices which transact Money Order business or by banker's draft or Postal or Post Office Order or cheque drawn to the order of H. M. Commissioners of Inland Revenue.

3. If a fee in excess of the prescribed fee is paid on or forwarded with an application to the Registry, no refund of the amount of the excess may be claimed from the Registry.

4. If the amount of the fees chargeable according to the said Schedule appears to the Registrar in any particular case to be either insufficient or excessive, owing to the time and labour involved he may increase or reduce the fees by such an amount as he thinks fit having regard to the special circumstances of the case.

5. This Order may be cited as the Land Registry (Middlesex Deeds) Fee Order, 1927, and shall come into operation on the 1st day of January, 1928.

Dated the 23rd day of December, 1927.

Cave, C.

W. Cope, *F. C. Thomson*, } Lords Commissioners of His Majesty's Treasury.

SCHEDULE.

FEES.	s.	d.
1. Registration of a memorial (including a Certificate of Satisfaction of Mortgage under Section 17 of the Act of 1708 and any necessary entry in the Register)	2	6
2. Noting the discharge of a mortgage under the Rule applicable thereto	2	6
3. Personal search, per name ..	2	0
4. Official search :—		

CONSIDERATION ON TRANSACTION OR VALUE OF THE INTEREST IN THE LAND AFFECTED.

—	Up to £5,000.	Up to £10,000.	Up to £20,000.	Over £20,000
	£ s. d.	£ s. d.	£ s. d.	£ s. d.
Per name, for a period not exceeding 10 years.	0 3 0	0 4 0	0 5 0	0 10 0
Per name, for a period exceeding 10 and not exceeding 20 years.	0 3 6	0 5 0	0 6 0	0 12 6
Per name, for a period exceeding 20 and not exceeding 30 years.	0 4 0	0 6 0	0 10 0	0 15 0
Per name, for a period exceeding 30 and not exceeding 40 years.	0 5 0	0 10 0	0 15 0	1 0 0
Per name, for a period exceeding 40 years.	0 10 0	0 15 0	1 0 0	1 5 0

	s.	d.
5. Statutory Declaration taken in the Registry	2	0
Each Exhibit thereto	1	4
6. Expediting return of instrument if required within 24 hours of its being left in the Registry ..	2	6
7. Office copies 6d. per folio with a minimum fee of	3	0
8. Copies of plans	Such charges according to time and labour involved, as the Registrar shall prescribe.	

(*a*) 7 Ann. c. 20. (*b*) 54-5 V. c. 64.
(*c*) 15-6 G. 5, c. 20. (*d*) S.R. & O. 1925 (No. 1313), p. 815.

Legal Notes and News.

Honours and Appointments.

Mr. ANDREW THOS. SHEPHERD, solicitor, Registrar of the County Courts of Sunderland and Seaham Harbour, and District Registrar of the Sunderland District Registry of the High Court, has also been appointed Registrar of the County Courts of South Shields and Jarrow, and District Registrar of the South Shields District Registry, and assumed the duties thereof on Monday, the 2nd inst.

Mr. LESLIE CLARKE, M.A. (Oxon.), solicitor, of the firm of Messrs. Clapham, Fraser & Williams, of No. 15, Devonshire-square, Bishopsgate, E.C.2, has been appointed Clerk and Solicitor to the Worshipful Company of Coopers. Mr. Clarke—who was admitted in 1900—also holds the appointment of Clerk to the Stepney and Bow Education Foundation.

Mr. DOUGLAS E. BIART, Clerk to the Caterham (Surrey) Urban District Council, has been appointed Clerk to the Rugby Urban District Council in succession to Mr. A. Morson, who has retired after twenty-two years' service.

Mr. PERCIVAL M. SHIMMIN has been appointed Deputy Town Clerk of Douglas in succession to Mr. A. A. Cuthbertson, who has resigned on the conclusion of thirty years' service.

Professional Announcements.

(2s. per line.)

Mr. JOHN HENRY COCKBURN, O.B.E., solicitor, until recently practising under the name of Messrs. Parker Rhodes & Co., has now taken into partnership the following: Mr. NORMAN SPOTTISWOODE ROBSON (until recently with Messrs. Chartres and Youll, Newcastle-upon-Tyne), Mr. ALFRED ROBINSON, who has been associated with Messrs. Parker Rhodes & Co. since 1908; and Mr. ALBERT EDWARD MAITH (who until recently was with Mr. A. A. Burton, B.A., LL.B., of Leeds). The firm will henceforth be known as Parker, Rhodes, Cockburn & Co.

Messrs. WARD, PERKS & TERRY, solicitors, 85, Gracechurch-street, E.C., are taking into partnership Mr. PHILIP J. TERRY (younger son of Mr. T. H. Terry), who has been associated with the firm for some years. The name of the firm will remain unchanged.

Mr. PERCY MATTHEWS, senior partner in the firm of Messrs. Matthews, Matthews & Goodman, auctioneers, estate agents and surveyors, who has been in practice for fifty years, has retired, but Mr. HAROLD H. MATTHEWS and Mr. ALFRED GOODMAN will carry on the business as heretofore. Mr. H. R. ROY MATTHEWS (son of Mr. Harold H. Matthews), who has been connected with the firm for a considerable time, has been admitted into partnership as from the 1st January, and the business will from that date be carried on under the style of Matthews & Goodman.

MONEYLENDERS.

At the Court at Buckingham Palace, the 20th day of December, 1927. Present, The King's Most Excellent Majesty in Council.

Whereas by subsection (1) of section 11 of the Moneylenders Act, 1927, it is provided that no action by a moneylender for the recovery of money lent by him or for enforcing any agreement or security relating to any such money shall be brought in any inferior court other than a county Court, so, however, that His Majesty may by Order in Council direct that any inferior court specified in the Order shall have the same jurisdiction as respects such actions as aforesaid as it would have had but for the provisions of that subsection, and that any such Order may contain such provisions as appear to His Majesty expedient with respect to the making of rules of court for regulating the procedure to be followed in the case of any such action:

And whereas it is expedient that the Courts specified in the Schedule to this Order (being inferior Courts other than a county court) should have the jurisdiction aforesaid subject to provisional rules made by the Lord Chancellor regulating the procedure to be followed in the case of any such action in those Courts:

And whereas in pursuance of subsection (2) of the said section a draft of this Order has been laid before each House of Parliament for a period of not less than twenty-one days during the session of Parliament:

Now, therefore, His Majesty is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered as follows:—

1. Subject to the provisions of this Order and of any rules made thereunder, every Court specified in the Schedule to this Order shall, as respects actions by a moneylender for the recovery of money lent by him or for enforcing any agreement or security relating to any such money, have the same jurisdiction as it would have had but for the provisions of subsection (1) of section 11 of the Moneylenders Act, 1911.

2.—(1) The Lord Chancellor may make provisional rules regulating the procedure to be followed in any Court specified in the said Schedule in the case of any such action as aforesaid.

(2) Any such rules may be varied or revoked by any subsequent rules made by the authority having power to make rules regulating the procedure of the court to which they relate, but, subject to any variation or revocation by subsequent rules made by that authority or by the Lord Chancellor under this Order, they shall continue in force as from the date on which they are expressed to come into operation.

3. The Interpretation Act, 1889, shall apply for the purposes of this Order in like manner as if it were an Act of Parliament.

4. This Order may be cited as the Moneylenders (Local Courts) Order, 1927, and shall come into operation on the 1st day of January, 1928.

M. P. A. Hankey.

Schedule.

The Mayor's and City of London Court.
The Court of Passage of the City of Liverpool.
The Salford Hundred Court of Record.
The Derby Borough Court of Record.

THE LATE LORD HALSBURY.

A biography of the late Earl Halsbury, Lord Chancellor of England, is in course of preparation. The work has been entrusted by the family to Mrs. Wilson-Fox (daughter of the late Right Hon. Henry Cecil Raikes, M.P., formerly H.M. Postmaster-General), who asks us to say she would be grateful for any anecdotes, or the loan of any sketches, letters or other papers relating to the deceased lawyer and statesman. Copies—not originals—of documents should be sent in the first instance to Mrs. Wilson-Fox, 9, Priory-grove, South Kensington, S.W., or to Miss Joan Clarkson, 4, Harcourt-buildings, Temple, E.C.4.

THE WRITER'S OWN MAGAZINE.

We understand that a new journal to cater for all who are interested in the early rudiments of literature, will be issued this month. It will be illustrated, and prove of especial value to new writers, with its interesting and informative articles, literary competitions (with cash prizes), etc., and will be published at 6d., by Messrs. Arthur H. Stockwell, Ltd., 29, Ludgate-hill, London.

VALUATIONS FOR INSURANCE.—It is very essential that all Policy Holders should have a detailed valuation of their effects. Property is generally very inadequately insured, and in case of loss insurers suffer accordingly. **DEBENHAM STORR & SONS (LIMITED)**, 26, King Street, Covent Garden, W.C.2, the well-known chattel valuers and auctioneers (established over 100 years), have a staff of expert valuers, and will be glad to advise those desiring valuations for any purpose. Jewels, plate, furs, furniture, works of art, bric-a-brac a speciality.

Stock Exchange Prices of certain Trustee Securities.

Bank Rate 4½%. Next London Stock Exchange Settlement Thursday, 12th January, 1928.

	Middle Price 4th Jan.	Interest Yeild.	Yeild with Redemption.
English Government Securities.		£ s. d.	£ s. d.
Consols 4% 1957 or after	85¾xd	4 13 6	—
Consols 2½%	55⅜	4 10 0	—
War Loan 5% 1929-47	101⅜	4 18 6	4 18 9
War Loan 4½% 1925-45	96¾	4 13 0	4 16 6
War Loan 4% (Tax free) 1929-42	101	3 19 0	3 19 6
Funding 4% Loan 1960-1990	88¾	4 11 6	4 14 0
Victory 4% Bonds (available for Estate Duty at par) Average life 35 years	94¼	4 5 6	4 7 0
Conversion 4½% Loan 1940-44	96¾	4 13 0	4 16 0
Conversion 3½% Loan 1961	77⅛	4 11 6	—
Local Loans 3% Stock 1921 or after	65	4 13 0	—
Bank Stock	256	4 13 0	—
India 4½% 1950-55	93	4 16 6	4 18 6
India 3½%	73	4 17 6	—
India 3%	63	4 16 6	—
Sudan 4½% 1939-73	94xd	4 15 0	4 17 0
Sudan 4% 1974	84	4 15 6	4 17 0
Transvaal Government 3% 1923-53 (Guaranteed by British Government, Estimated life 19 years)	82	3 15 0	4 12 6
Colonial Securities.			
Canada 3% 1938	85	3 12 0	4 18 0
Cape of Good Hope 4% 1916-36	93	4 6 0	5 0 6
Cape of Good Hope 3½% 1929-49	80	4 7 0	5 0 0
Commonwealth of Australia 5% 1945-75	98	5 2 0	5 2 6
Gold Coast 4½% 1956	93	4 16 6	4 17 6
Jamaica 4½% 1941-71	92½	4 18 0	4 18 6
Natal 4% 1937	93	4 6 0	5 0 0
New South Wales 4½% 1935-45	90	5 0 0	5 7 0
New South Wales 5% 1945-65	98	5 2 0	5 3 6
New Zealand 4½% 1945	97	4 12 6	4 17 6
New Zealand 5% 1946	101¼	4 18 6	4 16 6
Queensland 5% 1940-60	99	5 1 0	5 3 0
South Africa 5% 1945-75	101	4 19 0	5 0 0
South Australia 5% 1945-75	98	5 2 0	5 0 0
Tasmania 5% 1945-75	100xd	4 18 6	5 0 0
Victoria 5% 1945-75	98	5 2 0	5 0 0
West Australia 5% 1945-75	98xd	5 0 0	5 2 0
Corporation Stocks.			
Birmingham 3% on or after 1947 or at option of Corporation	63	4 15 6	—
Birmingham 5% 1946–56	103	4 17 0	4 17 0
Cardiff 5% 1945–65	102	4 18 6	4 18 0
Croydon 3% 1940–60	68¼	4 8 6	5 0 0
Hull 3½% 1925–55	77xd	4 9 6	5 0 0
Liverpool 3½ Redeemable at option of Corporation	73	4 16 0	5 0 0
Ldn. Cty. 2½% Con. Stk. after 1920 at option of Corpn.	53½	4 14 0	—
Ldn. Cty. 3% Con. Stk. after 1920 at option of Corpn.	64	4 15 6	—
Manchester 3% on or after 1941	62xd	4 14 6	—
Metropolitan Water Board 3% 'A' 1963–2003	64	4 14 0	4 17 0
Metropolitan Water Board 3% 'B' 1934–2003	66	4 12 6	4 15 6
Middlesex C. C. 3½% 1927–47	82xd	4 5 0	4 17 0
Newcastle 3½% Irredeemable	72xd	4 16 6	—
Nottingham 3% Irredeemable	63	4 15 6	—
Stockton 5% 1946–66	101xd	4 17 0	4 19 0
Wolverhampton 5% 1946–56	101½	4 19 0	5 0 0
English Railway Prior Charges.			
Gt. Western Rly. 4% Debenture	84	4 16 0	—
Gt. Western Rly. 5% Rent Charge	102	4 18 0	—
Gt. Western Rly. 5% Preference	100	5 0 0	—
L. & N. E. Rly. 4% Debenture	79xd	5 1 0	—
L. & N. E. Rly. 4% Guaranteed	78	5 4 0	—
L. & N. E. Rly 4% 1st Preference	71	5 14 0	—
L. Mid. & Scot. Rly. 4% Debenture	80xd	5 0 0	—
L. Mid. & Scot. Rly. 4% Guaranteed	81	5 0 0	—
L. Mid. & Scot. Rly. 4% Preference	76	5 5 0	—
Southern Railway 4% Debenture	80½xd	5 0 0	—
Southern Railway 5% Guaranteed	99	5 1 0	—
Southern Railway 5% Preference	93	5 9 0	—

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UNDER THE

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arranged, revised and edited by

ALFRED FELLOWS, B.A. Cantab.

of Lincoln's Inn, Barrister-at-Law.

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